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HEARING
BEFORE THE
UNITED STATES
COMMISSION ON CIVIL RIGHTS

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HEARING HELD
IN
WASHINGTON, D.C.
June 14-17, 1971

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MEMBERS OF THE COMMISSION

The Reverend Theodore M. Hesburgh, C.S.C., *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Maurice B. Mitchell

Robert S. Rankin

Manuel Ruiz, Jr.

Howard A. Glickstein, *Staff Director*

John H. Powell, Jr., *General Counsel*

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*Retained in Commission files.

**Balance of information retained in Commission files.

***This information had not been received by the Commission at the time the transcript went to press.

UNITED STATES COMMISSION ON CIVIL RIGHTS

MONDAY, JUNE 14, 1971

The U.S. Commission on Civil Rights met at 9 a.m. in the Auditorium, Department of Agriculture South Building, Washington, D.C., Stephen Horn, Vice Chairman of the Commission, presiding.

PRESENT: Stephen Horn, Vice Chairman; Frankie M. Freeman, Commissioner; Robert S. Rankin, Commissioner; Maurice B. Mitchell, Commissioner; Manuel Ruiz, Jr., Commissioner. Also present: Howard A. Glickstein, Staff Director; John H. Powell, Jr., General Counsel.

PROCEEDINGS

VICE CHAIRMAN HORN. This hearing of the United States Commission on Civil Rights will please come to order.

I would first like to swear the clerk and the reporter.

(Whereupon, Mr. James Garriss and Mr. David Silverstone were sworn in as Clerks and Mr. Joe C. McLaughlin was sworn in as Reporter.)

VICE CHAIRMAN HORN. Ladies and gentlemen, I am Stephen Horn, Vice Chairman of this Commission and President of California State College, Long Beach, California.

On behalf of the Commission, I welcome you to this hearing and take his occasion to introduce the other Commission members and members of our staff.

Reverend Theodore M. Hesburgh, President of Notre Dame University and Chairman of the Commission, is receiving an honorary degree today at Yale University. He will be with us either later this evening or tomorrow.

Below me, beginning at my right, are four other members of the Commission. The first is Mrs. Frankie M. Freeman, an attorney from St. Louis, Missouri.

Next to her is Dr. Maurice B. Mitchell, Chancellor of the University of Denver, Denver, Colorado.

Next is the most senior Commission member, next to Father Hesburgh, Dr. Robert S. Rankin, Professor Emeritus at Duke University, Durham, North Carolina, who has been on the Commission since the Eisenhower Administration.

And last is Mr. Manuel Ruiz, Jr., an attorney from Los Angeles, California.

Immediately to my right is Mr. Howard A. Glickstein, the Staff Director of the Commission. Next to Mr. Glickstein is our General Counsel, Mr. John H. Powell, Jr. Next to Mr. Powell is Miss Leda Rothman, a staff attorney, and then Mr. David Hunter and Mr. Peter Gross, both Assistant General Counsels.

The hearing is being held under the authority of the Civil Rights Act of 1957, as amended. As required by law, notice of the hearing was published in the Federal Register on May 6, 1971. A copy of this notice will be introduced into the record as Exhibit No. 1.

(Whereupon, the document referred to was marked Exhibit No. 1 and received in evidence.)

VICE CHAIRMAN HORN. The Commission on Civil Rights is an independent, bipartisan agency of the United States Government established by Congress in 1957. Its duties are the following:

1. To investigate sworn allegations that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin;
2. To study and collect information regarding legal developments which constitute a denial of equal protection of the laws under the Constitution in such fields as voting, education, housing, employment, the use of public facilities, transportation, or in the administration of justice;
3. To appraise Federal laws and policies with respect to the equal protection of the laws;
4. To serve as a national clearinghouse for information with respect to denials of equal protection of the laws because of race, color, religion, or national origin; and finally,
5. To investigate sworn allegations of vote fraud in Federal elections.

Under the law, the Commission is required to submit reports to the President and the Congress containing both its findings and the recommendations for corrective legislation or executive action. To enable the Commission to fulfill its duties, the Congress has empowered the Commission to hold hearings and issue subpoenas for the attendance of witnesses and for the production of documents.

I can most clearly explain the functions and limitations of this Commission by quoting from a decision of the United States Supreme Court early in the Commission's history:

"This Commission does not adjudicate; it does not hold trials or determine anyone's civil or criminal liability. It does not issue orders. Nor does it indict, punish, or impose any legal sanctions. It does not make determinations depriving anyone of life, liberty, or property.

"In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights. The only purpose of its existence is to find facts which may subsequently be used as the basis for legal or executive action."

In carrying out its legislative mandate, the Commission has made detailed studies in the fields of voting, public education, housing,

employment, public facilities, and the administration of justice. To augment our studies in these areas, we have held public hearings in Alabama, Arizona, California, the District of Columbia, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Tennessee, and Texas.

In such hearings, our goal is to compile a solid body of knowledge which will be subjected to a thoroughgoing study and analysis to develop recommendations for actions that will help assure equality of opportunity for all Americans.

At this point I would like to have Commissioner Ruiz, a member of the bar, read the rules of the Commission as a matter of record. Mr. Ruiz.

COMMISSIONER RUIZ. Thank you, Mr. Chairman.

I should like to emphasize that the observations which I am about to make on the Commission's rules constitute nothing more than brief summaries of the significant provisions of the rules. The rules themselves should be consulted for a fuller understanding. Commission staff members will be available during the course of these hearings to answer any questions which may arise.

With the exception of members of the Cabinet and heads of other Federal agencies, all of the persons scheduled to appear to testify who live or work in the Washington, D.C. metropolitan area have been subpoenaed by the Commission. All of the testimony which the Commission will receive at these public sessions will be under oath and will be transcribed verbatim by the official reporter. Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of cost. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of the hearing or his testimony. Such requests will be granted only to make the transcript conform to testimony as presented in the hearing.

All witnesses are entitled to be accompanied and advised by counsel. Counsel may subject his client to reasonable examination. He may also make objections on the record and argue briefly the basis for such objections. If the Commission determines that any witness' testimony tends to defame, degrade, or incriminate any person, that person or his counsel may submit written questions which, in the discretion of the Commission, may be put to the witness.

Persons subpoenaed to the public session may request that witnesses be subpoenaed on their behalf. All requests for subpoenas must be in writing and must be supported by a showing of the general relevance and materiality of the evidence sought. In addition, all witnesses have a right to submit statements prepared by themselves or others for inclusion in the record, provided they are submitted within the time required by the rules.

Witnesses at Commission hearings are protected by the provision of Title 18, U.S.C., Section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings.

Copies of the rules which govern these hearings may be secured dur-

ing the recess from a member of the Commission's staff. Persons who have been subpoenaed have already been given copies of these rules.

Finally, it may be pointed out that these rules were drafted with the intent of insuring that Commission hearings be conducted in a fair and impartial manner. In many cases, the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done this in the belief that useful facts can be developed best in an atmosphere of calm and objectivity. We hope that such an atmosphere will prevail at these hearings. Thank you very much, Mr. Chairman.

VICE CHAIRMAN HORN. Thank you, Commissioner Ruiz.

This hearing is concerned with the bearing of Federal programs, policies, and priorities upon the problem of racial polarization within the Nation's metropolitan areas. Our central cities are becoming increasingly minority and poor, while the areas that surround them are disproportionately white and affluent. Mounting racial division, in combination with the alarming and growing gap between the needs and resources of our central cities, comprises the gravest domestic problem our Nation faces.

For over a year and a half, the United States Commission on Civil Rights has devoted a substantial part of its resources to studying the problem of racial division in our metropolitan areas. The Commission has sought to evaluate the causes, the consequences, and the remedies for such polarization.

The Commission's studies have included major hearings in St. Louis and in Baltimore. These hearings examined in considerable detail the causes and effects of racial polarization in those two metropolitan areas. In addition, in a number of States the Commission's State Advisory Committees—which are composed of concerned private citizens—have examined the problem of racial polarization in other metropolitan areas. The Commission has engaged in a variety of additional study activities on this problem, including the examination of specific Federal programs and policies.

Based on these hearings and studies, the Commission has reached a number of conclusions. Because of their relevance to the present hearing, I would like to summarize briefly four of these conclusions.

The first conclusion is that racial polarization in our metropolitan areas is severe and is growing.

During the decade from 1960 to 1970, the white population of our central cities decreased by 1.9 million people, while the black population was increasing by 2.8 million people. I will not burden you with the dry statistics which reflect this pattern in the individual metropolitan areas we have studied.

But it, of course, is true that the division between suburbs and central cities is in significant part an economic one—with the poorer people concentrated in the central cities. In many metropolitan areas, there is a great need for more low- and moderate-income housing in suburbia. As the population of our metropolitan areas grows, this need also will increase.

At the same time, it is essential to remember that polarization by color is much more pronounced—and serious—than is polarization by income, that it is mainly the minority poor that have been shut out of suburbia.

For example, the 1970 census shows that, in metropolitan areas of one million or more residents, 54 percent of white persons earning less than \$4,000 per year live in suburbia, while 69 percent of white families earning more than \$10,000 a year live in suburbia.

The comparative figures for black families, however, show that only 14 percent of black persons (as against 54 percent for white) earning less than \$4,000 per year live in suburbia, and 23 percent of black persons (as against 69 percent for whites) earning more than \$10,000 a year live in suburbia.

The Commission has heard vivid testimony about the worsening plight of central city residents—of poverty, overcrowding, inadequate public services, poor schools, and inadequate and overpriced housing.

The Commission's investigations, therefore, have confirmed the basic conclusion reported by the Kerner Commission in 1968 that "our Nation is moving toward two societies, one black, one white—separate and unequal."

The second of the Commission's conclusions is that this great racial polarization is the product of racial discrimination.

It is not by accident that a disproportionate number of minority persons have been relegated to life in the congested misery characteristic of our central cities.

The Commission has found that racial exclusion was basic to the formation of large areas of suburbia. During the period when much of what now constitutes the Nation's metropolitan areas was built, racial exclusion was expressly endorsed and implemented by Federal and many State and local governments, as well as by all components of the private sector. We also have found that more subtle forms of racial discrimination—for example, the practice of racial "steering" by real estate brokers—remain prevalent today.

Once racially segregated patterns of residence have been established, they are difficult to break; the white suburb created by overt discrimination continues to perpetuate itself today. Those minority persons who, like many whites, prefer the living environment of suburbia to that of the central cities, must run the gauntlet of exclusionary practices and pressures. In addition, many minority persons—as other persons traditionally have done—prefer to reside where a substantial number of their own group reside. Because much of suburbia is all-white, they are forced to choose between this preference, on the one hand, and the living environment of suburbia on the other.

True freedom of choice of residence does not exist in these circumstances.

The third conclusion of the Commission is that a vital element in combating racial polarization within metropolitan areas is an active, affirmative program to open up housing opportunities for minority persons in suburbia.

It must be emphasized that increased access to suburbia is only one part of the solution for racial polarization and our other urban ills. Revitalization of the central cities and allocation of adequate resources for needed public services also are matters of the highest priority.

By the same token, however, neither freedom of choice of residence for individual minority families, nor solution for the many problems of our central cities, is possible without an effective strategy for promoting access to the suburbs.

Suburban access strategies must seek to increase the supply of low- and moderate-income housing where needed to relieve the enormous pressure on central cities of unmet housing needs, and to help lessen the fiscal burdens and worsening living conditions associated with the concentration of poor persons in the central cities. Suburban jurisdictions, which freely reap the benefits associated with metropolitan areas, should also be expected to share fairly in the problems faced by those metropolitan areas. It is essential to the solution of such problems that they do so.

Moreover, since minority family incomes are heavily concentrated in the low-to moderate-income range, it follows that the development of low-to moderate-income housing in suburbia is essential if existing exclusionary patterns are to be remedied.

The need for low- and moderate-income housing in suburbia also is evidenced by the growing gap between job opportunities and housing in these areas. Not only have many jobs moved from central cities to suburbs, but most new employment opportunities are arising there. The lack of low-to moderate-income housing in these areas has become a problem for many employers, and hinders the balanced development of suburbia. More significantly, the inadequate supply of such housing in suburbia perpetuates the present exclusion of minority persons from equal access to the growing employment opportunities located in suburbia.

The fourth principal conclusion of the Commission is that the Federal Government has a major role to play in carrying out such suburban access programs and policies.

For several decades, Federal funds and programs have helped develop, and continue to help develop, metropolitan areas characterized by racial polarization. Federal funds and programs will continue to have this effect until a deliberate decision is made to reverse this process.

As the record of performance attests, suburban jurisdictions—acting individually—lack incentives to share the burdens of the central cities. It is clear that a much greater leadership role must be assumed by higher governments—Federal, State, and regional—if the suburban access problem is to be solved.

This does not mean that the Federal or State governments are to impose some preconceived “best plan” on each metropolitan area. Rather, the need is to bring into being the programs, institutions (such as effective mechanisms for regional planning), and ground rules which are necessary to reverse the present process of polarization.

The principal focus of this hearing is on the role of Federal policies

and programs as they relate to the needs of suburban access. The hearing also will include, however, testimony on many other aspects of the suburban access problem. The significance of the problems we will be dealing with in the next few days was brought again to public attention by the President's message on Federal Policies Relative to Equal Housing Opportunities released on Friday, June 11. Many of the questions raised by his message will be discussed here.

The hearing will continue until Thursday, June 17, and during that time we will hear testimony from more than 50 witnesses. We will hear from Cabinet officials, such as Secretaries Romney and Volpe and Attorney General Mitchell, as well as other Federal officials whose responsibilities are pertinent to housing, local government officials, experts in the field of housing and planning, representatives of the real estate industry, representatives from several of the Commission's State Advisory Commissions, and private citizens who have experienced in a very real sense the lack of access to suburban housing opportunities.

Our hearing will begin each day at 9 o'clock in the morning and continue until approximately 5:30 o'clock in the afternoon. We will end the hearing on Thursday at noon.

Our schedule for this morning begins with a discussion of the Miami Valley, Ohio Regional Housing Plan. Following that we will take a 15-minute break and resume with testimony from the Bureau of the Census. Our final witnesses for the morning will be a panel of persons who are familiar with the problems of housing opportunities in the Washington, D. C. metropolitan area. We will adjourn for lunch at approximately 12:50 p.m. and resume this afternoon at 2:05 p.m.

The first witness today will be from the Dayton, Ohio metropolitan area. We will begin our testimony with Mr. Dale Bertsch, who is the executive director of the Miami Valley Regional Planning Commission.

If Mr. Bertsch will come forward, we will be glad to swear him in, and the other individuals on the panel, Mr. Ben Ankney, councilman, of Kettering, Ohio, two other residents of Kettering, Helen Washington and Mr. Fritz Hawkins, and Virginia Kamke.

(Whereupon, Mr. Dale F. Bertsch, Mr. Ben Ankney, Mrs. Helen Washington, Mrs. Virginia Kamke, and Mr. W. Fritz Hawkins were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. DALE F. BERTSCH, EXECUTIVE DIRECTOR,
MIAMI VALLEY REGIONAL PLANNING COMMISSION,
DAYTON, OHIO; BEN ANKNEY, COUNCILMAN, KETTERING, OHIO;
MRS. HELEN WASHINGTON, KETTERING, OHIO;
MRS. VIRGINIA KAMKE, KETTERING, OHIO;
AND MR. W. FRITZ HAWKINS, DAYTON, OHIO**

VICE CHAIRMAN HORN. Please be seated. Let me just say, Mr. Bertsch, before you start, the pattern of questioning will be that the factual basis will be laid down in a series of questions by either the General Counsel or the Assistant General Counsel concerned, after

which the Commissioners will in sort of rotating order ask questions, and the General Counsel, Staff Director, and the Chairman will conclude the questioning.

Mr. Powell, our General Counsel, will begin the questioning.

MR. POWELL. Mr. Chairman, my initial questions will be propounded to Mr. Bertsch, and then I will pursue questioning the other witnesses on this panel.

Mr. Bertsch, would you please state your name, address, and occupation for the record?

MR. BERTSCH. My name is Dale Bertsch. I am the executive director of the Miami Valley Regional Planning Commission, 44 South Ludlow, Dayton, Ohio.

MR. POWELL. Who serves on the Miami Valley Regional Planning Commission and what does the commission do?

MR. BERTSCH. The commission consists of 42 representatives from local government either appointed by their local—in every case appointed by their local constituency, and they either are elected to their local constituency and in turn appointed or they are responsible thereto.

At the present time, 37 of the 42 in their own right are elected to local government and then in turn appointed to our board.

MR. POWELL. Please describe for us the Miami Valley Region in terms of geographic area and population.

MR. BERTSCH. The region consists of five counties, four of which are the Dayton SMSA—or Standard Metropolitan Statistical Area, approximately 2,500 square miles, Dayton at the hub.

The map over my right shoulder here portrays the location with the center county in the lower part of the map being Montgomery County and the county in which Dayton is located.

(See map, p. 000.)

The actual population data is included in material which I have made available to the Commission. The general population is roughly 900,000 as of 1970. The central county's population consists of approximately 600,000. Dayton, about 243,000. So, roughly, we are talking about 900,000, two-thirds of which reside within the central urbanized county, approximately a quarter of which reside within the central city, Dayton.

MR. POWELL. Would you describe the racial composition of the population?

MR. BERTSCH. Approximately 10 percent of the population is black for the region. Approximately 12 percent, or about 83,000, of the central county are black. And about 30 percent, or about 74,000, of the central city, Dayton, are black. These figures also are in an attachment in the material submitted to the Commission.

MR. POWELL. Mr. Bertsch, what is the Dayton Plan and what factors were considered in its development?

MR. BERTSCH. The Dayton Plan is actually a document which resulted from the housing program which the Regional Planning Commission within our area is developing, and what we attempted to

do is begin a process of evaluation of all of the factors, or the many factors, which relate to housing, and not only the factors related to low- and moderate-income or to racial ghettoization, but the total housing market, the total misuse of land on a large scale, and everything else involved, and an attempt to identify need within our region, the need in terms of housing by breakdown and by geographic area, and all of the problems that are involved.

The actual plan itself, at least the portion which appears to have been unique, was the development of a system whereby a fair share or an equal share system was developed for scattering low- and moderate-income housing opportunity throughout the region.

It was felt by the commission in the development of this particular plan that the housing disparities within the region had to be attacked on a total regional basis.

A great many factors were identified. A few were contained within the formula. All of the factors, however, are considered in actually carrying out the allocation process.

MR. POWELL. Mr. Chairman, at this time I would like to introduce for the record a summary of the Dayton Housing Plan.

VICE CHAIRMAN HORN. Without objection, it will be entered into the record.

(Whereupon, the document referred to was marked Exhibit No. 2 and received in evidence.)

MR. POWELL. Mr. Bertsch, would you please describe the needs and problems which gave rise to the plan and relate them specifically to the existing economic and racial residence patterns in the region?

MR. BERTSCH. The major problems that confronted us when we began the housing program within the region probably could be narrowed down to seven major categories, some of which the program which has been adopted by the region addresses itself to, some which lie ahead, and some which are going to be very difficult probably ever to get at.

Housing supply was probably the No. 1. We had a very, very low vacancy rate within our region—1.6 I believe it was—at the time we began the program. There is definitely a measurable scarcity of low-income housing opportunity, and you can't really separate—When you talk low-income housing opportunity you are talking a racial situation because the predominant low-income category in our particular region are blacks.

There was a good deal of demolition occurring within the central city because of the expressway programs and urban renewal, and the replacement activity was not keeping pace with that.

And there was very little aggressive leadership in broadening out or eating into this housing supply.

The second major area is housing demand. We had better than 53,000 people when we began the program—53,000 households, that is—who earned less than \$5,000 a year. We had over 1,200 people on the public housing waiting lists. The list now has been expanded to over 3,000. And the need for elderly housing is constantly being increased.

The third area would be finance problems. Costs are extremely high. Many families can't qualify for either the home ownership program because of bad credit risks or things of this nature.

Quality, qualitative aspects, would be another major problem. We have got over 35,000 identified substandard dwellings within the region. There is very little room for innovative design because of cost limitations. And the mass transit program certainly has not really gotten off the ground within our region, being one of those marginal areas in order to broaden out the potential housing density patterns that would be necessary.

Organization and administration would be a fifth major problem area. When we began, there was no real regional plan. The city of Dayton was attacking its problems, but that was piecemeal basically because of the effect on the region. There was no agency there for coordination. There was no regional strategy. And there was no technical assistance to the people in need of housing.

The sixth major area was one of data.

And the seventh one was community acceptance.

And here it's the whole mystique of what low- and moderate-income people and what minority groups do to housing values. And maybe more importantly is the whole problem of low- and moderate-income housing opportunity or housing projects being so identifiable to those groups—talking about “projectitis”—tend to be very identifiable within the region.

Our whole plan is aimed at opening opportunity without regard to race, recognizing that there are those unique circumstances that work against minority groups and especially the minority poor.

MR. POWELL. You mentioned that part of the plan involved getting every jurisdiction to have a fair share or equal share of the housing needs. Was there a device used in that connection? Were there goals set for each region?

MR. BERTSCH. We did develop a series of goals and policies over a 2-year program working with local business leaders and governmental leaders and citizens and attempted also to develop a series of policies to carry out or attempt to strive toward those goals.

The initial policy package is aimed primarily at expanding low- and moderate-income new housing opportunity though, and we are preparing at this time a report on rehabilitation. And I need to emphasize that it is an ongoing program.

As a part of this whole package, we developed a data base, obviously, in order to truly understand the situation ourselves and developed a strategy for a public information program and for developing an educational base about the problem for those in government and out of government.

And we developed a formula to allocate in an acceptable manner, or in a manner acceptable to those people who were in a position of making the decision as to whether or not this distribution system would be acceptable.

MR. POWELL. Would you describe the technique employed in

presenting the plan first to your commissioners and then to the public?

MR. BERTSCH. Well, the technique goes back over a 2-year period. It involved a great deal of education. The chamber of commerce in our area and some of the business leaders who were at that time involved in the NAB program began to work and pull the people together, technical people that is, and people interested in expanding housing opportunity, in very unofficial sessions, breakfast sessions, dinner sessions, things of this nature.

We began a series also of workshops or programs aimed at raising the understanding, the level of understanding, of the elected officials and the administrators.

In turn, this whole thing was aimed through the development in 1969 of a housing workshop and aimed itself in July of 1970 at a public hearing before the Regional Planning Commission, at which time we had a slide presentation describing the problem. We had a slide presentation or kind of a "chalk talk" describing the need and describing the plan itself.

The chairman at that time, Tom Cloud, who in his own right is an elected official within our region, then decided to appoint an ad hoc committee of commissioners to obtain reaction.

We scheduled two more public hearings before the Regional Planning Commission in August and September. September was aimed as the target date for a decision.

The ad hoc committee of the commission itself was charged with the responsibility of taking the staff recommendation and all feedback and coming up with a recommendation.

And we were further charged with sponsoring and responding to hearings throughout the region in all jurisdictions and before any group that would hear it.

And we began on then a 60-day journey across the region carrying forth the same presentations that we made before the Regional Planning Commission itself.

MR. POWELL. Would you describe the reaction of the white suburbanites to the plan?

MR. BERTSCH. Well, the reaction initially was—There was very little reaction in the first 2 or 3 weeks, in fact in the first month. And it was almost as though disbelief—Or there was almost a case of: "Let them develop it because it's really not going to make a whole lot of difference."

The chairman made rather a—well, a scathing comment at the August Regional Planning Commission meeting indicating that the commission did intend to see this plan implemented, it intended to use any powers that it had available to carry it out, and that people better be concerned.

At that time also there were released a number of statements from HUD aimed at showing that there was the intent to implement and expand housing opportunity and the possibility even of placing priority on certain types of Federal funds which we by the way are the review agency for within our metropolitan area.

The next 30 days the reaction was considerably different. It ranged all the way from ridicule to outright hostility. Crowds ranged anywhere in the first month between five and maybe 25. The second month the crowds ranged anywhere between about 40 and 300.

The result was some communities having to hold two and three hearings.

A good deal of ridicule was thrown at the elected officials. Most of it I think was aimed at us—and us coming into their community attempting to solve their problem, or what they didn't consider to be their problem but rather a central city problem. So a great deal of our effort was one of educational effort.

MR. POWELL. What was the reaction of the black community?

MR. BERTSCH. The reaction of the black community—well, the black suburban community didn't differ a whole lot from the white suburban community. There was a general feeling in some of the area immediately outside of the central city where the blacks have expanded into the suburbs or a suburb—rather restricted growth—of disliking low- and moderate-income people as much as the white suburbs. Obviously, it was not in the same racial tones.

The reaction of the central city blacks was one of support, recognizing that we were attempting to solve the problem, but one of conditional support until the definition or the term "scatteration" was defined. Because there was a certain amount of fear on those individuals who are attempting to pull themselves together that scatteration implied involuntary scatteration.

Once the byword of opportunity was emphasized and understood, we received full support from the Model Cities and full support from I would say most black leaders within the central city.

MR. POWELL. After this period of public presentation, did your commissioners eventually approve the plan?

MR. BERTSCH. The plan was approved with some modifications to the staff recommendations, primarily minor modifications, no modifications within the quota system. One recommendation was dropped completely.

And on a roll call vote the initial vote was 26 to 0. The members who were not present at that hearing were polled, and their votes made a part of the record, and at the present time the vote stands 42 to 0.

MR. POWELL. That is just fantastic. In view of all of the opposition from the white community, to what do you attribute the unanimous vote of the commissioners in favor of the goals of the plan?

MR. BERTSCH. Well, there are a number of reasons I think. One, I like to think, because it's right. I think more importantly though a great deal of the fear that had been faced by suburban elected officials had been that the first suburb to open up would in essence become the relief valve for the central city. Once we made it very clear that the intention of the plan was to open the entire region up and have the quota not only become a goal for opening a particular subdivision up but also in turn become a method by which we can begin to slow down housing activity within that particular suburb until the other suburbs

have begun to meet their responsibility, there was a great deal more support for the concept.

Basically, it also provided some numerical understanding of impact of what quantity we were talking about in particular suburbs.

We also emphasized that the scatteration or the allocation philosophy was not only one of scattering within the planning units but also one of scattering within that planning unit.

I think also, very honestly, that there was a certain number of votes that were cast with the idea that—with the full recognition that we really have no legislative power and that the ultimate decision would be left up to the local community anyway.

And I think that the overwhelming response in light of some of the hearings though— We have to say that it took some very “gutsy” elected officials.

MR. POWELL. Could you describe for us the Office of Management and Budget Circular A-95, review and comment process, and let us know what role it plays in the development of the Dayton plan?

MR. BERTSCH. The A-95 process is an outgrowth of section 204 of the 1966 Demonstration Cities Act. It is really a sophistication of that. A-95 basically takes certain types of Federal grants-in-aid, certain types of Federal programs, and stipulates that they have to go through two clearinghouses, one a State clearinghouse, and secondly a metropolitan clearinghouse. In our particular region we are that metropolitan clearinghouse.

As such, we are given 30 days to review and comment—not approve, not veto, but review and comment—upon Federal aid applications which fall into the applicable categories, at the conceptual stage or an early warning type stage, and also supposedly prior to financial commitment.

And in that process we are able then to encourage the applying agency, whether it be public or quasi-public, to become cognizant of evolving regional policies and plans and to somehow be assured that those applications are consistent with those policies and plans.

Our thinking all along has been—and the commission in essence is evolving some rather detailed policies at the present time in light of some changing things—to use the A-95 review power or review process—and I think that it can be a power—as a vehicle for encouraging applying agencies to meet their responsibility, their regional responsibility, in regard to all plans, including housing.

We would hope that as this strategy evolves that in turn our comments might have some effect on the potential income from the Federal grant process to the particular planning unit involved, and as such it could be used as a device to encourage implementation.

MR. POWELL. Mr. Chairman, at this time I would like to introduce into the record a copy of Circular A-95.

VICE CHAIRMAN HORN. Without objection, it will be added to the record.

(Whereupon, the document referred to was marked Exhibit No. 3 and received in evidence.)

MR. POWELL. Mr. Bertsch, does Circular A-95 require you to comment on a proposed project's effect on racial and economic residence patterns in the region?

MR. BERTSCH. Specifically it does not. That is Equal Opportunity's responsibility within the particular Federal agency. Through the relationships that we have developed with the HUD office within our region, we do stipulate within the record that type of comment.

MR. POWELL. Would such a requirement be helpful to you?

MR. BERTSCH. Very.

MR. POWELL. Mr. Bertsch, in terms of the prospects for success of the Dayton Plan, why would it be helpful to you?

MR. BERTSCH. Well, we would certainly be in a position of being able to outline very specifically to the applying agency any apparent disparities that might evolve statistically and hope that they could draw some of the same conclusions that we would.

At the present time a great deal of the pressure for bringing these types of facts and the interpretation of these type of facts lie with us at our region.

I might point out too that our whole plan is not couched in nor do we feel that it is based completely on that type of a need. We are talking about for early implementation and for that type of encouragement to prevail it certainly would be extremely helpful.

MR. POWELL. Would such a requirement help the political problems of the commissioners?

MR. BERTSCH. I think that it could help. Not being an elected official, I don't know that I could make that type of a judgment. It certainly might not—it might not—help those on the next level up though.

MR. POWELL. All right. Turning now to the other members of the panel and beginning with the person closest to the rostrum, would each of you please state your name, address, and occupation for the record?

MRS. WASHINGTON. My name is Helen Washington. I am an administrative secretary for the YMCA.

MR. POWELL. And your address?

MRS. WASHINGTON. My address is 2005 Foxhall Court in Kettering, Ohio.

MRS. KAMKE. My name is Mrs. Virginia Kamke. My address is 2216 Culver Avenue, Kettering, Ohio. My occupation—I am a registered nurse, unemployed, and I am a housewife and a mother.

MR. HAWKINS. My name is Fritz Hawkins. I am employed by the Ohio Bell Telephone Company. My residence is 2905 Oak Ridge Drive, Dayton, Ohio.

MR. ANKNEY. My name is Ben Ankney. I am a schoolteacher and an elected councilman for the city of Kettering. I live at 503 Peach Orchard in Kettering. I live at 503 Peach Orchard in Kettering.

MR. POWELL. Mrs. Washington, Mrs. Kamke, and Mr. Ankney, how long have each of you lived in Kettering?

MRS. WASHINGTON. I have lived in Kettering since 1966.

MR. POWELL. Mrs. Kamke?

MRS. KAMKE. I have lived in Kettering since 1965.

MR. ANKNEY. I have lived in Kettering since 1959.

MR. POWELL. Mrs. Kamke, where is Kettering located in relation to Dayton?

MRS. KAMKE. Kettering borders Dayton, sort of in a "U" shape. It borders Dayton.

MR. POWELL. What is the population of Kettering, Mrs. Kamke?

MRS. KAMKE. I believe approximately 70,000 people.

MR. POWELL. Are there many black families living in Kettering?

MRS. KAMKE. I don't think so. I would say there's probably anywhere between seven and 14 black families but I don't know.

MR. POWELL. Have you been active, Mrs. Kamke, in attempts to integrate Kettering?

MRS. KAMKE. Yes, to some degree.

MR. POWELL. What is the price range of housing in Kettering, Mrs. Kamke?

MRS. KAMKE. I would say that it probably starts around \$17,000 or \$18,000 and goes up to high limits.

MR. POWELL. Isn't that well within the economic means of many black persons in the region?

MRS. KAMKE. I feel it is.

MR. POWELL. To what do you attribute the relative disparity of relatively few numbers of blacks in Kettering?

MRS. KAMKE. I feel that there is a pattern of racial discrimination throughout the suburban area.

MR. POWELL. Mrs. Washington, you say you have lived in Kettering since 1966. Where did you live before moving to Kettering?

MRS. WASHINGTON. In West Dayton.

MR. POWELL. What was the racial composition, Mrs. Washington, of the population in Kettering when you first moved there?

MRS. WASHINGTON. They had four families who were renting there, but we were the first black family to buy in Kettering.

MR. POWELL. Why did you decide to move to the suburbs, Mrs. Washington?

MRS. WASHINGTON. After looking at several residences for sale, we found that the area that most of the Realtors tried to direct us to was an area that was becoming another black ghetto, the Upper Dayton View.

MR. POWELL. Did you have any trouble buying your home?

MRS. WASHINGTON. We didn't have any trouble as far as finding a Realtor, a Realtor to show us a home, and we didn't have any trouble with a seller, but as far as being able to finance our home, in spite of the fact that we had purchased property three times through the same financial institution, our home is now financed through a lending institution in Detroit, Michigan.

MR. POWELL. You weren't able to get local financing?

MRS. WASHINGTON. We were not.

MR. POWELL. To what would you attribute that?

MRS. WASHINGTON. I think it was a racial pattern. Somehow I get the idea that it is an unwritten law not to be the first finance company to put a black family into an all-white neighborhood.

MR. POWELL. Once you moved into Kettering, Mrs. Washington, what was the reaction of your neighbors?

MRS. WASHINGTON. I found my neighbors both naive and pathetic. For instance, three or four of the little neighbor's children were playing on my patio, and one of them decided to go into the house, and when she came back she could hardly suppress a grin, and her statement was: "I saw three beds."

And I couldn't imagine why she was so surprised. I asked her what did she say. She said: "I saw three beds in her house." So I asked her what did she think we slept on, that of course we sleep in beds the same as her parents.

MR. POWELL. Tell me—you have lived there 5 years—have you now been accepted by your white neighbors?

MRS. WASHINGTON. Well, I have been very active. I serve on the Kettering Board of Community Relations and I have worked with many neighborhoods, suburban neighborhoods, Valbrook, Oakwood, and other neighborhoods, trying to help educate the whites in that area that we are human beings, we have a common goal.

And I find some of them very willing to listen. They find that they actually need the education, that our goals are the same as theirs, we're really not interested in social involvement with them. When we find people that we like or they like us, we do have exchange of social activities.

But I think they are pretty— They realize now that our move was not for a social exchange, intermarriage, or anything else other than just a freedom of choice to live and buy where we wanted to.

MR. POWELL. Why do you think so few black families have moved to Kettering?

MRS. WASHINGTON. Well, No. 1, the Realtors usually try to show you someplace else, and, No. 2, I think they would have trouble, maybe not at this point— Since they found out that interest money will be paid to out-of-city or out-of-State finance companies, I think that they are a little more willing now to finance.

But at the time that we moved there they would not finance any Negro families in that area. So I think it's mostly attributed to the fact that Realtors are not showing property in that area and finance companies are not willing to finance property in that area.

MR. POWELL. When you say Realtors are not showing property in that area, you mean Realtors are not showing property to black prospective buyers?

MRS. WASHINGTON. Correct.

MR. POWELL. Mr. Hawkins, you indicated earlier that you live in West Dayton. Where is your office located?

MR. HAWKINS. My office is located in Kettering, Ohio.

MR. POWELL. In Kettering?

MR. HAWKINS. Yes.

MR. POWELL. Have you ever tried to move to Kettering, Mr. Hawkins?

MR. HAWKINS. Yes, I have. At one time I attempted to purchase a home in Kettering. The home was listed for \$33,000. On finding out that I was black, the price was raised to \$37,500. So I was being penalized \$4,500 for being black.

MR. POWELL. Did you file a complaint?

MR. HAWKINS. I did not.

MR. POWELL. Why not?

MR. HAWKINS. First of all, complaints take a long time to go through the courts. I wanted a home then. So I couldn't wait.

MR. POWELL. Do many black people work in Kettering?

MR. HAWKINS. Absolutely.

MR. POWELL. What kind of jobs do they have?

MR. HAWKINS. Well, let me say this. We have a defense electronics plant there. Thirty percent of it is black people—30 percent out of I'd say a total work force of about 4,000. Then there are others in some of the scattered companies throughout the area there, the telephone company being one, the Frigidaire Corporation being another.

For the most part these jobs go from—a limited number, of course, being professional people. Others, of course, is the unskilled labor force.

MR. POWELL. Where do the majority of the black people who work in Kettering live?

MR. HAWKINS. Dayton, Xenia, and Yellow Springs, Ohio.

MR. POWELL. Would you describe West Dayton for us?

MR. HAWKINS. Yes. West Dayton is the area where 95 percent of the nonwhite population live. Thirty percent of Dayton's total population is black. Here is to be found a complex of racial isolation which includes economic exploitation, commercial failure, crumbling buildings, depleted municipal services, high unemployment rates, social disorders, human frustration, despair, and last, absentee landlords.

Now, the 1966 disturbances began there, and to show you how completely isolated and restricted and contained this area happens to be, I was on my way home from work the particular morning that the disorders began. The police merely blocked Third Street—Third Street separates West Dayton from East Dayton and the business community. So the only thing that is necessary to keep the black people on the reservation is to block Third Street, First Street, and the Salem Street bridges.

MR. POWELL. You mentioned that there are black people working in Kettering. Are there other employment opportunities for minority persons in Kettering?

MR. HAWKINS. Very few that I would know of, but they are expanding because so many of the businesses are moving to Kettering, and, of course, the suburbs in the outskirts of Dayton metropolitan area.

MR. POWELL. When business moves to suburbs like Kettering, do you think that they have an obligation to see to it that there are housing opportunities for their potential employees?

MR. HAWKINS. Yes. Business does have this sort of an obligation.

First let me say this. Business should let the communities know that their decisions to locate will be determined by the community's receptiveness to all of its employees.

There was a large company moved from the Dayton area some 6 or 7 years ago. It moved to Columbus, Indiana. It wasn't able to take any of its black employees there because they weren't able to relocate them there.

MR. POWELL. Thank you.

MR. ANKNEY, in addition to being a schoolteacher, do you hold elective office?

MR. ANKNEY. Yes.

MR. POWELL. What elective office do you hold?

MR. ANKNEY. I am a councilman for the city of Kettering elected from one of four districts. There are seven councilmen, four elected from districts.

MR. POWELL. How long have you been a member of the Kettering City Council?

MR. ANKNEY. This is my eighth year. Seven and a half years.

MR. POWELL. Has the Kettering City Council passed a fair housing law?

MR. ANKNEY. Yes.

MR. POWELL. Has the law been effective in opening up the community?

MR. ANKNEY. There's no signs of that, no. I would judge in many respects there are fewer blacks there now than there were before the law was passed.

MR. POWELL. Mrs. Kamke, in your work in attempting to integrate Kettering, have you found that law to be effective?

MRS. KAMKE. I don't think it's effective.

MR. POWELL. Did you attempt to do anything about it?

MRS. KAMKE. After the law was passed and I had spoken at a city council meeting and met with no response, I wrote to the Chicago office of HUD to complain about the law and the limitations that it put upon people seeking housing in Kettering and— Did you want me to go on with what happened?

MR. POWELL. Yes.

MRS. KAMKE. This was in October of 1969. The law was passed in September of 1969. I received a letter back from the HUD office saying that they would investigate my complaint and advise me of the action that they might take and that an investigator would call upon me to verify my complaint.

I heard nothing more about that until June of 1970—by that time I thought, of course, that I had been forgotten—when an investigator called me from Chicago and said that she would be in town to talk with the Kettering city officials and would like to meet with me about my complaint. So she came to speak to me about that.

And in my original letter I had heard that there would be a possibility—it was sort of rumored—that Miami Valley Regional Planning,

since it was reviewing applications for Federal monies—there might be a possibility that Federal monies could be held up if a community was not doing all it could to integrate.

So I asked her how much money Kettering had applied for in funding, and at that time it was \$67,000 for park money. At that time the investigator told me that she felt for a city the size of Kettering \$67,000 was not very much money and it wasn't much of a handle on a community that size, but that she would see what they could do.

I heard nothing more from HUD after that time. In November I first heard in the papers that Kettering had—that park money for Kettering had been held up because of a complaint. After that I wrote to HUD three times, sending them additional information, mostly clippings from newspaper articles, and in my third letter asking them to advise me of the status of the money holdup, and this sort of thing, what was going on.

And I never heard from them, but shortly after my letter went out I read in the newspaper that Kettering received its money, which at that time then was up to about \$93,000. But I was never advised of the action.

MR. POWELL. You mentioned earlier that you thought the fair housing law was ineffective. What's wrong with the law? What makes it ineffective?

MRS. KAMKE. Under the limitations I felt that first of all there is no order—there is nothing to tell people that they have to advertise in the newspapers or anything. And I feel that this encourages secret deals that minority people are not able to know about and to take advantage of.

In comparison to the 1866 act which prohibits discrimination in all real estate, our law has limitations on, you know, if a certain number of people—or if the owner lives in the apartment, or things like that, that I feel are discriminatory.

There is an entrapment clause. I don't know what it means, but it's something about entrapping, and it's very unclear, and I don't think too many people would understand what it meant. But what it means to me is that I'm afraid to follow after someone who feels that they have been discriminated against.

MR. POWELL. Mr. Ankney, would you care to comment on that?

MR. ANKNEY. Yes. I don't agree with Mrs. Kamke that the law is ineffective because of the weaknesses in the law. I think it is a very good equal opportunity law. It does not only deal with housing, it deals with employment and education in regards to race or religion or national ancestry. It covers a wide area. It does have a penalty.

And in regard to the entrapment clause, it is our understanding by our lawyer that it is not the kind of entrapment that she is referring to. It is perfectly legal under this law to follow up and find out whether or not a house will be rented or sold to a white rather than Negro. That is not what is involved in this entrapment clause that she is referring to.

I don't think the law, though it could be stronger since it does have a few restrictions as to four-family or less apartments which the owner

lives in— it allows discrimination in that area. That is, I think the greatest weakness in the law.

And we had a meeting in Kettering sponsored by our community relations board in which some 200 people attended, and in which the question was: "Why haven't black people moved to Kettering?" And, of course, there are some of these reasons mentioned here—Realtors showing houses, loan institutions refusing loans or making it difficult to get loans, the change in the price of the house.

However, our community relations board has not received one complaint in 2½ years.

There was another answer—and I think it is a very serious one and important one—that came up in this meeting when a young black woman stood up and says: "We're not coming to Kettering. You don't want us, and we don't want you. We're going to stay on the reservation."

I think there is a growing polarization in the last 2 years that is dangerous and serious and I don't think that it is entirely in the area of whites but also blacks who are withdrawing from the efforts, and the crusading effort that Mrs. Washington represented I think a few years ago is no longer there. They're not coming. They fear they won't be made welcome.

And yet individually I know of two couples who were made very welcome in Kettering, almost driven out of their home by visitors who were trying to make them welcome. I know others somewhat harassed.

MR. POWELL. Mr. Ankney, turning now to the Dayton Plan, what has been—

VICE CHAIRMAN HORN. Counsel, would you secure a copy of that fair housing ordinance that has been mentioned several times and insert it at this point in the record?

MR. POWELL. Yes, we will. Let the record note that the fair housing ordinance will be inserted in the record at this point. We have a copy of it, Mr. Chairman.

(Whereupon, the document referred to was marked Exhibit No. 4 and received in evidence.)

MR. POWELL. Mr. Ankney, turning now to the Dayton Plan, what has been the reaction of your constituents to that plan?

MR. ANKNEY. Really we have had no great reaction from the constituents as far as I know, but the council—we meet regularly, and we have discussed this. We have read the material, the plan as it came out. And the council, like all legislative bodies, is divided.

I think it is interesting in that the assumption this plan was accepted. I might read you what our council adopted—a resolution, which was watered down from two other resolutions which included the words "moderate- and low-income housing."

This resolution reads: "All governments in the Dayton metropolitan area, including the city of Kettering, have an obligation to assist in the Nation's effort to provide adequate housing for all American families. As its part in attaining this objective the city of Kettering will cooperate with private entrepreneurs and public bodies who propose to locate

in Kettering, provided such developments are consistent with existing zoning requirements and are in keeping with sound community planning principles."

This, however, is not maybe as weak as it might appear, since I must point out—and I think all of you must know—that zoning requirements can be changed. However, that generally brings the burden eventually right to council where a political decision has to be made.

MR. POWELL. Were there objections expressed by your constituents to the Dayton Plan?

MR. ANKNEY. A few—

MR. POWELL. Would you describe some of them for us?

MR. ANKNEY. To my knowledge. Oh, the ones I'm going to give you came largely from council, which they indicate are reflecting their constituents.

The first one most often raised is it will lower the property values in a neighborhood where any public housing goes in.

And second that it would place an economic burden on the schools—the idea that the low-income, moderate-income people who move into these housing will not pay adequate taxes to support the education of their children.

And third the idea that it will lower the educational standards in the schools.

MR. POWELL. Those are the expressed objections. Do you believe that there are unexpressed objections?

MR. ANKNEY. Yes.

MR. POWELL. What would they be?

MR. ANKNEY. Well, I believe the thing that lies in the background of members of the council and of many citizens is that low- and moderate-income housing will bring in blacks. They don't tend to use this at the beginning. It's rarely referred to.

It's rather odd in our society that today we are openly stating we will accept racial integration but we're stating we will not accept economic integration. We won't accept our poor white brothers but we are legally required and we generally say we will accept our black brothers. Obviously, this isn't true.

MR. POWELL. Mr. Ankney, what has been your position on the Dayton Plan?

MR. ANKNEY. I am in favor of it though I don't suggest that our council will accept it, especially the quota that is mentioned there. I am sure that our council will attempt to reduce that quota if indeed it accepts any at all.

MR. POWELL. Do you have to stand for election again this fall?

MR. ANKNEY. Yes.

MR. POWELL. What effect do you think your position on the Dayton Plan is going to have on your chances for reelection?

MR. ANKNEY. Well, I have been told I can't be reelected. One councilman offered to bet me \$10 I can't be reelected, but I don't think it has so much to do with this particular plan as it has to do with the open housing law and a modification of that more recently.

MR. POWELL. Mr. Hawkins, have you been active in the NAACP?

MR. HAWKINS. I have been active in the NAACP.

MR. POWELL. What is the position of the NAACP on the Dayton Plan?

MR. HAWKINS. The NAACP enthusiastically endorsed the Dayton Plan.

MR. POWELL. Mrs. Washington, do you think the Dayton Plan will work? What do you think of the Dayton Plan?

MRS. WASHINGTON. I think the Dayton Plan is a marvelous idea because it will scatter the blacks throughout not only Kettering but throughout the county, and once integration has been obtained throughout the county and there will be no place for the whites to run, I feel that we will have a more stabilized community, and a stabilized community can work toward certain goals and will be able to be more successful in obtaining a goal if it is a stabilized community than it would if it is a fluctuating community.

MR. POWELL. Mrs. Kamke, what is your view of the Dayton Plan?

MRS. KAMKE. I would have to agree with Mrs. Washington that it sounds great on paper. I feel that if it's to get off the ground we need greater leadership on both the national and local level, and personally I would like to see my councilmen stop telling me that their own racism belongs to me and their constituents, which I think often happens. I don't think the people of Kettering are as racially prejudiced as sometimes our council would reflect.

I feel that restrictive zoning may stand in the way of it. The recent Supreme Court decision on allowing proposals for low- and moderate-income housing to go on public referendum may defeat the plan.* And I feel that if the Miami Valley Regional Planning Commission loses its power to review applications for Federal monies and comment on this, I feel that this may also defeat the plan.

MR. POWELL. Mrs. Kamke, are there any black children in the elementary schools in Kettering?

MRS. KAMKE. I don't know. I would say that there may be probably not more than 25 black children in Kettering, but I don't have definite figures.

MR. POWELL. Do you have any children, Mrs. Kamke?

MRS. KAMKE. Yes, I have two girls.

MR. POWELL. Do you think it's important for them to have integrated education?

MRS. KAMKE. Yes, very important.

MR. POWELL. Why?

MRS. KAMKE. I want my children to grow up realistically, and the world is getting smaller, and when they grow up they are going to have to get along with people of all races, and they are going to have to get along with people of all different economic and cultural backgrounds, and I don't want my children to grow up in a world with barricades and race wars and economic wars. I want them to be prepared for the world

**James v. Valtierra* (1971).

they are going to have to live in.

MR. POWELL. In view of the nonexistence of black children in Kettering, where do you send your children to school?

MRS. KAMKE. I send them to kindergarten in Kettering because I don't have a choice. But then my oldest little girl then attended last year an integrated school in Dayton, a private school which is approximately 75 percent black.

MR. POWELL. Do you think the Dayton Plan if it worked would help bring about integrated education in Kettering?

MRS. KAMKE. I hope so.

MR. POWELL. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. All right. We will move to the Commissioners. Mrs. Freeman, would you like to begin the questioning?

COMMISSIONER FREEMAN. I suppose I would direct this question to any of the panel. With respect to Kettering, about what percentage of the homes in Kettering have FHA-insured mortgages? Do you know?

MR. BERTSCH. No.

MR. ANKNEY. I am unable to answer that, but a good number.

COMMISSIONER FREEMAN. A good number of them have FHA—

MR. ANKNEY. Yes.

COMMISSIONER FREEMAN. Are there any subdivisions in Kettering where there are FHA-insured mortgages?

MR. ANKNEY. I am sure there are.

COMMISSIONER FREEMAN. Could you tell us if those subdivisions were constructed since 1962?

MR. ANKNEY. I'm not sure. I think so. Oak Creek. Yes.

COMMISSIONER FREEMAN. Mr. Bertsch?

MR. BERTSCH. Kettering was within the last 2 or 3 years noted as being the fastest growing city in the State of Ohio. It didn't exist right after the war, and it is fast approaching 80,000 now. There has been a great deal of subdivision activity. In fact, it's reaching the point where Kettering is aggressively looking for land to annex. The land is getting filled up so fast.

I have no way of judging the percentage of FHA activity, but in the price range of the houses that you are talking about I would say FHA loans would be available within virtually all of that—all of the new activity area. Some of it is apartment activity. And some of those have been insured under the FHA programs.

There are no FHA low- and moderate-income housing projects within Kettering, however, either 235, 236, or other categorical FHA low- and moderate-income programs, presently.

COMMISSIONER FREEMAN. My question is directed to the FHA insured units because this includes and contemplates a Federal program, and this Commission is, of course, concerned about the practices of HUD in this regard where Kettering, according to the report which we have, has 69,000, about 70,000 of the population and 136 black families. And if you have a significant number of FHA homes there, then what you are describing is a situation where the exclusion is sustained by the Federal Government, and, of course, this is of concern to us. I

have no more questions. Thank you.

VICE CHAIRMAN HORN. Dr. Mitchell?

COMMISSIONER MITCHELL. No questions.

VICE CHAIRMAN HORN. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Bertsch, is your plan unique? Do you think so or not? Are there other plans like it in the United States?

MR. BERTSCH. I am told it is unique. On the basis of the mail and phone calls, I would judge that as a strategy, as far as we have taken it, it is unique.

I think it's important that we recognize that it is only the first step. There is measurable activity, but it's a plan at this point.

COMMISSIONER RANKIN. Do you think the plan would work in other areas?

MR. BERTSCH. This question comes up a great many times, and I think that we feel that it is extremely important that—in fact, it's one of the requests that we made to HUD, one of six, in January of this year that we would like to see it be a requirement that all metropolitan regions within this Nation be required to adopt a strategy, not necessarily our plan because our plan certainly is going to have to be modified considerably as ours goes along, and certainly circumstances are going to differ in the larger metropolitan areas and the larger regions.

But we feel that in light of the housing element being required as a part of comprehensive planning, in light of the flow of Federal funds that are being demanded and the shortage of those funds available, that there should be some method of placing considerable priority on the evolution of strategies which aggressively attack solutions or attach solutions toward these very obvious and well documented problems.

COMMISSIONER RANKIN. Are blacks continuing to migrate into the Miami Valley today?

MR. BERTSCH. I would judge that migration is continuing as it has. I have no real figures on that. The major migration into our region is Appalachian whites, not blacks.

COMMISSIONER RANKIN. I happen to be one. Are they desirable or not?

MR. BERTSCH. They are more difficult to place than blacks.

COMMISSIONER RANKIN. So they really give you a problem then? Is that it?

MR. BERTSCH. I won't necessarily say that they give us a problem. There are a great many restraints that are class-oriented that legislation has in the past attacked with regard to race. At least we have laws on the book. On relocating, for example, from urban renewal projects within the central city, it is much easier to relocate a black family than it is an Appalachian white.

COMMISSIONER RANKIN. Do civil rights rules and laws apply to them as well as to blacks?

MR. BERTSCH. We certainly think so.

COMMISSIONER RANKIN. And you do so? You apply them equally? Is that right? You try to in your plan?

MR. BERTSCH. Yes.

COMMISSIONER RANKIN. Okay.

MR. BERTSCH. Well, our plan makes no mention of race nor no mention of the Federal Government nor no mention of force.

COMMISSIONER RANKIN. Just one more question. Mr. Hawkins, you mentioned you attempted to move into Kettering. Is that right?

MR. HAWKINS. I attempted to purchase a home.

COMMISSIONER RANKIN. Did you hear the testimony here today that blacks today do not desire to move into Kettering, that they prefer not to? Do you agree with that testimony that was given?

MR. HAWKINS. I can't say that I agree with that statement, because there are so many blacks that can afford good, decent, safe housing, new housing, housing for which their income would enable them to pay for comfortably, would love to move from their ghetto entrapment into areas that would provide schools for their children, that would enable them to also become those in the upper strata, middle income.

The schools that are located in our area, they are inferior. Even if they had superior staff they would still be the type of schools in which the child couldn't very well achieve because his aspirations and his values, and so forth, would be dimmed by the very fact that he is looking at, walking with, associated with all these things that come as a result of being in the ghetto.

They would move, but not in the numbers that the whites actually think they would be. It wouldn't be a general exodus at all. Because some of us like to remain with our own. But there's others would like to go to the suburbs.

COMMISSIONER RANKIN. That's all, Mr. Chairman.

VICE CHAIRMAN HORN. Thank you. Commissioner Ruiz?

COMMISSIONER RUIZ. Mr. Bertsch, I'd like to know why industry is developing in the direction of Kettering. Is there any specific reason?

MR. BERTSCH. Well, actually, industry from the standpoint of manufacturing industry is not developing in Kettering *per se*. There is a great deal of commercial development. The major industrial developments that occurred in Kettering occurred in the past decade and are certainly expanding—some of the GM facilities, and DESI, Defense Electronics, which was mentioned.

I think it's probably a case of industry wanting to take advantage of what at least at the time of relocation was cheaper taxes. I think it's a case of wanting to obtain the suburban image. I think it's a case of a great many factors that most of us who work in the planning field don't generally consider to be a part of the decisionmaking process—maybe move the facility closer to where the country club is or closer to where the executives live.

COMMISSIONER RUIZ. Well, is the planning of such nature that that area has been zoned for businesses?

MR. BERTSCH. There is vacant land for industrial development presently in Kettering. Zoning in Kettering for—well, the councilman would have to judge there. I would say that any large clean industry that would care to move to Kettering would get its zoning rather quickly.

MR. ANKNEY. We are very enthused about getting industry. We have not been getting industry, however. We have had great increase in business, commerce of all types.

COMMISSIONER RUIZ. This is principally commercial and commerce that's going in that direction?

MR. ANKNEY. Yes.

COMMISSIONER RUIZ. Mr. Hawkins mentioned the fact that there was a plant that left Dayton and moved to Columbus, Indiana. What type of work was being done by that plant? Was it some sort of a Government contracting, industrial enterprise?

MR. HAWKINS. It manufactured electrical motors. The company I speak of was Master Electric.

COMMISSIONER RUIZ. Did they do Government work or was it strictly private?

MR. HAWKINS. I wouldn't be able to answer that.

COMMISSIONER RUIZ. Now, where is industry located around Dayton—that is to say, factories, medium industry, heavy industry? Is it away from Kettering or in that direction?

MR. ANKNEY. Well, there is an industrial developed area that is a separate city from Kettering called Moraine which originally was part of the Kettering incorporation effort but withdrew, and it has been what you might call the industrial area of Kettering. So it's in a separate city.

We also note a lot of industry is moving further south along the superhighways toward the south. Miamisburg, West Carrollton are doing very well in attracting industry, while Kettering can't attract industry I feel because our land values are too high and beginning to be congested and access to the superhighways.

COMMISSIONER RUIZ. Now, this industry that is developing further south. With respect to the employment pool, there is no access from Dayton, is there? It's a little too far?

MR. ANKNEY. Well, it's a very short drive on the superhighways even from the west side. I wouldn't say much more than 10 minutes.

COMMISSIONER RUIZ. With relation to that particular industrial zone or area, is that located in a predominantly white or all-white neighborhood?

MR. ANKNEY. Predominantly white.

COMMISSIONER RUIZ. Predominantly white?

MR. ANKNEY. Yes.

COMMISSIONER RUIZ. By "predominantly" do you mean 95 percent?

MR. ANKNEY. At least.

COMMISSIONER RUIZ. And the 5 percent that is nonwhite, has that always lived there or is that going into that area now?

MR. ANKNEY. I couldn't answer that question.

COMMISSIONER RUIZ. Can anyone answer that question?

MR. BERTSCH. I would judge that Moraine's population would be closer to about 98 percent, and I would judge that those who were nonwhite did not move there within the last decade. It was either through annexation or—

COMMISSIONER RUIZ. They had always been there? The 2 percent have always been there?

MR. BERTSCH. Yes.

COMMISSIONER RUIZ. So there is no new entries going in there?

MR. BERTSCH. If we are talking about Moraine.

COMMISSIONER RUIZ. Yes. I am spreading this around a little bit because I am trying to get a population movement if I can from you.

MR. BERTSCH. I enclosed in the material which I presented to the Commission a [population] breakdown by county and by city of the 1960, 1970 and the nonwhite 1960, 1970, which indicates the disparity in—

COMMISSIONER RUIZ. In any event, the black population, let us say, in Dayton is not going further south to where these areas are developing by way of residence and by way of living? Is that correct?

MR. HAWKINS. That is correct.

MR. ANKNEY. I might say as a Kettering councilman, probably the best opportunity in that direction is in Kettering where we have made an effort to pass an open housing law and to have a community relations board to enforce it. This has not been done to the same extent as you go further south.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Bertsch, to oversimplify a bit, as I understand the theory behind the Dayton Plan, it is that the solution of economic, employment, educational, and housing problems in our country cannot be left to individual cities or counties but really requires a regional approach. Would that be correct?

MR. BERTSCH. Yes, we feel it requires a regional strategy and a national commitment.

MR. GLICKSTEIN. You mentioned Circular A-95. To clarify a bit, what that is all about, as I understand it, that is a directive from the Office of Management and Budget that has been issued pursuant to authority of the President which requires that before Federal assistance is granted by a Federal agency the applications for Federal assistance be reviewed by some type of a regional group such as the Miami Valley Commission. Is that correct?

MR. BERTSCH. That is correct, providing those grants fall on the lists of the A-95.

MR. GLICKSTEIN. That is a pretty extensive list though, isn't it?

MR. BERTSCH. Yes.

MR. GLICKSTEIN. It covers most of the significant housing programs?

MR. BERTSCH. Twenty-five housing programs were just added as of April 1. Since this is the first grouping of non-Government type of grants, we are only at this point given 15 days to review those applications and only at the point of financial feasibility rather than at project stage.

We are in the process now of evolving in consort with HUD and FHA a series of both official and unofficial guidelines to attempt to see how

we can best use A-95.

MR. GLICKSTEIN. As I understand it also, A-95 sets out the various factors that are considered in the review process. For example, one of the factors is whether the particular request affects outdoor recreation or open space or the concern for high standards of design. Is that correct? Are these among the factors that would be considered?

MR. BERTSCH. Yes. There are a series of general type factors which are stipulated within the circular itself. It is pretty well left up to the applicable clearinghouse—for example, the MVRPC in our particular area—to stipulate the ground rules, so to speak, for our use of that guideline.

MR. GLICKSTEIN. But as I understand Circular A-95, it doesn't require your commission to comment on the Civil rights implications of the request for assistance. It would not, for example, require you to indicate whether the particular application would foster the dispersal of low- and moderate-income housing?

MR. BERTSCH. That is true. That is not a requirement. This does not preclude, however, an agency such as ours from making it one of its review rules. The difference I guess is where the leadership is stemming from.

MR. GLICKSTEIN. But you might make that one of your review rules, but if you commented adversely, for example, it would still be possible for the Federal assistance to be granted? Isn't that correct?

MR. BERTSCH. That is correct. All we do is comment.

MR. GLICKSTEIN. Do you think that it would strengthen the review procedure if the comments were more than just comments, if the Federal agencies were required to do something more than just read them and file them?

MR. BERTSCH. The answer is obviously yes to your question. But I think that I need to state also that our experience has been that if an agency like our own can aggressively pursue a strategy, we are getting a fantastic amount of support from the agencies with which we deal.

MR. GLICKSTEIN. The Federal agencies?

MR. BERTSCH. The Federal agencies—and State.

The difficulty that we find, however, is that basically if we aggressively implement our strategy—my commission's strategy, it's the elected officials' now, not mine—we find ourselves in many cases merely facing the possibility of turning down Federal aid for our area which in turn might very well funnel itself into a region which hasn't even faced its responsibility in the development of a strategy of their own.

In essence, it can very easily and might very easily become a millstone about our region's neck.

We feel that the existing Federal policy should in essence become a requirement and be aggressively implemented. If that be the case, as we interpret it—and we may be interpreting it extremely liberally—we would read into that then that all regions would have to evaluate themselves in the manner that we did. All regions would have to evolve a strategy reflecting the problems within their region. And all regions

would have to then on the basis of how effective that strategy was compete for the limited categorical and other types of grants that are available.

MR. GLICKSTEIN. This requirement you would recommend be a Federal requirement written into Circular A-95?

MR. BERTSCH. I don't know that it needs to be necessarily written into A-95, because I can look across the country and see A-95 being used virtually as a rubber-stamp by many agencies. I am saying build it in somehow to some type of an aggressive program, no matter what nomenclature you hang it on.

MR. GLICKSTEIN. What if Circular A-95 said that all requests for Federal assistance had to be reviewed by the clearinghouse counsel in terms of whether it was consistent with the policy of providing low-and moderate-income housing on a nondiscriminatory basis and unless that requirement were met there would be no Federal assistance forthcoming?

MR. BERTSCH. That would be extremely helpful.

MR. GLICKSTEIN. That would remove the millstone that you said would be around the neck of an aggressive commission such as yours in competing for funds against some other region.

MR. BERTSCH. Yes.

MR. GLICKSTEIN. And if that were a requirement, metropolitan areas throughout the country such as Dayton would be in a position, I gather you believe, to solve some of the acute housing problems and employment problems we have today?

MR. BERTSCH. We would at least be in a position of being able to test the plan and its concepts within a more realistic framework. We have no guarantee, for example, that the plan is going to work.

MR. GLICKSTEIN. Also, to clarify another point you have come up with a plan but the various communities, the various municipalities that make up the Miami Valley Region, will not necessarily have to accept what the plan proposes. Is that correct?

MR. BERTSCH. That is correct. The particular officials on the Commission who represent the 42 constituent governments within the region voted in favor of the plan and they in turn are evaluating the plan's impact and the applicability for modification within their particular jurisdiction.

This does not mean necessarily that they will have to adopt, implement, or approve projects within their particular local jurisdiction.

MR. GLICKSTEIN. We heard some testimony a little while ago that one of the fears that suburbanites have about having low- and moderate-income housing built in their communities is that it is going to increase the tax burden. Do you think that it might be made more palatable if the Federal Government had some sort of a program to subsidize communities, add to their taxes or revenues when low-and moderate-income housing was built in the communities?

As you know, we do have a program today that provides funds to communities that educate military children or children of Federal employees—inpacted aid program.

MR. BERTSCH. As I understand it, in the last session of Congress the families of low- and moderate-income were added to that bill, but there was no appropriation made. That definitely would be helpful. There are a number of other things also that could equally be helpful.

At the present time there is a tremendous need to expand not only the low- and moderate-income housing from the standpoint of the various FHA programs which in their own right do pay taxes and in most cases can very easily be placed in the suburbs once the mystique or the stigma of these things somehow being public housing can somehow either through education or indoctrination be relieved, but this does not set off the problem of dispersal of public housing. At the present time the public housing opportunity within our region is strictly within the city of Dayton, and the county commissioners recently have approved a request for 1,100 units in the unincorporated portion of the county, 100 of which are under construction.

But that still leaves all of the political subdivisions other than Dayton within, for example, Montgomery County. At the present time they pay 10 percent of the sheltered rents in lieu of taxes. This, in our particular region, amounts to about 17 percent of what they would normally pay in tax.

Now, we would like to see something which would be a direct payment to the local government which would pay the full load of what public housing would normally pay in taxes. This would certainly be a big step forward in the area of public housing.

We would also like to be able to see considerable expansion of the public housing lease programs to the point where some of the cost differentials that are involved not only in public housing lease but in some of the FHA programs would more realistically reflect the higher costs that you are going to have to face in suburban locations and somehow develop a writeoff, either a land writeoff program or something of this nature which would keep the rents down when you had a high cost.

At the present time when FHA programs move to the suburbs they are primarily faced with two things. They either look for cheap land, which many times means marginal land, or they look for somebody to write down the cost of the land, or, secondly, they pay high costs for land and they cut corners on construction, which plays right into the suburbans' philosophy that this kind of housing, whatever that is, is cheaper and is not as attractive.

I think there are some premiums that we are going to have to pay in a housing program like ours—what we call facilitators—that are going to have to be anticipated and are going to have to be pursued aggressively in order to make sure that those fears that suburbanites and central city people have—because opportunity certainly is not broad within the central city—are in essence set aside and broadened out to the point that ultimately they maybe can be dispelled.

MR. GLICKSTEIN. Mr. Bertsch, some of your fellow panelists spoke about the attitudes of the people in the Miami Valley Region. Is there any component of the plan that deals with educating people or getting at these attitudinal problems, correcting stereotypes?

MR. BERTSCH. We have an ongoing educational program as a part of the total plan package. Very specifically, from an attitudinal standpoint during the passage of the plan we were funded by HUD through a special study grant—what we called the housing impact study. That housing impact study has since been completed, carried out by Gruen and Gruen Associates, consultants from San Francisco, for us and for the housing authority, in which the attitudes of various elected officials, certain suburban communities, and potential users of housing of this nature were evaluated and obtained and quantified on the basis of whether they would vary depending upon the type of assurances that could be made.

In other words, if, for example, you could somehow guarantee that property values were not going to fall, if you could guarantee that they were going to be attractive, if you could guarantee there wasn't going to be an impacting of the school system, and these type of things.

The results of that study are available, a summary of which is a part of the documents which I made a part of the package for the Commission. And the rest will be published later this fall.

As of last week, HUD has approved a second special study to pursue that particular project called a facilitators' study, in which we will attempt to monitor those types of facilitators and the way that they affect property value in projects that will be being put into the suburbs. So a long answer, but yes.

MR. GLICKSTEIN. Mr. Ankney, may I ask you one question, please? You read us the resolution that was adopted by the Kettering Council endorsing the plan, and you I believe indicated that you still had another step to take, another significant step, on voting on whether to go ahead with the plan as promulgated.

Do you think if there were a Federal requirement of some sort that before the Miami Valley Region, the entire area, received any sort of Federal assistance there had to be an acceptable plan that did provide for low- and moderate-income housing on a nondiscriminatory basis, that that would have an effect on the way your fellow councilmen would vote?

MR. ANKNEY. Yes. However, I must point out that it's touch and go right now. We might very well accept this whole program, but it would be a very close split vote in the council. Following the next election I don't know how that would go.

However, there is no doubt that as politicians, if I might call myself that, it is a little easier to lay the blame off for something that seems to be unpopular on someone else, like the Federal Government, or like the Prime Minister lays it off on the Supreme Court now.

MR. GLICKSTEIN. Thank you, Mr. Chairman.

Mr. Bertsch has provided us with some additional documents that I think would be useful to introduce into the record. May they be introduced, please?

VICE CHAIRMAN HORN. Yes. Without objection they will be inserted in the record at this point.

(Whereupon, the documents referred to were marked Exhibit No. 5

and received in evidence.)

VICE CHAIRMAN HORN. Mr. Powell, any further questions?

MR. POWELL. No, Mr. Chairman.

VICE CHAIRMAN HORN. Do any of the Commissioners have any further questions?

(No response.)

Let me just ask a few concluding questions here if I might, Mr. Bertsch, some of which might have been touched on.

You mentioned that the chairman of your group had obviously shown a lot of will power and political courage and leadership in terms of getting this plan implemented and adopted. I wondered if you would like to review what was the media, the newspaper support for the plan in the region? How helpful were the media and the newspapers in editorializing in favor of the plan? Was there much opposition to the plan?

MR. BERTSCH. The news media without qualification was wholeheartedly supportive. Without the positive press that we had, especially from the two metropolitan dailies, it would have been an extremely difficult task both to provide the education and also to make sure that people were aware that it was a very crucial issue.

Comment has been made that other than the Near East situation last summer the regional housing plan had more press coverage than any other topic. I think that we can say that for the suburban papers, also. And it is a continuing type of effort.

VICE CHAIRMAN HORN. We discussed mass transit a little bit. I wonder could you review how feasible is mass transit in this region at all or various options to mass transit, such as cars with radios picking up people, and so forth, to get workers to the plant and to get some sort of egress and ingress in the surrounding area?

MR. BERTSCH. Mass transit at this particular point in our region is like it is in so many of the medium sized metropolitan areas. We find that the service is being cut off. Money is being lost on the bus services.

There are two studies which have been funded by HUD or by DOT which are exploring the alternatives, the feasibility of various types of alternatives, all the way from the dial-a-bus type of program which you refer to to the actual development of a seldom-used railroad spur that runs the entire length of the southern corridor through Kettering, Centerville, and in turn some of the other older corridors, as to possibly it being used as a mass transit vehicle.

The particular study that we are talking about at this particular point in time is about three-quarters, maybe four-fifths completed and runs from center city down through Kettering.

Model Cities have developed a system of their own, dial-a-bus, which if carried out and proved feasible will provide a better method of mobility to the residents, for example, of the ghetto.

But on the present system of mass transit within our region it depends on the farebox. And I think that obviously the black community, low-income people, can't carry their weight there. And shortly we will be having to face some type of subsidy in order to provide adequate transportation.

We tend to feel that by broadening housing opportunity, mobility in terms of where a person lives might very well be an acceptable alternative to not mass transit *per se* but at least to such massive scales of mass transportation, and likewise to some of the school problems which our region faces like every other region in the Nation.

There is another factor, too, and that is the whole question of major tax revision that has to be faced, which has a tremendous effect on the cost of housing and on mass transportation and the whole question of mobility as we recognize it.

Our housing plan is one feather in a big bird, and to make that bird fly there's an awful lot of additional things that need to come.

VICE CHAIRMAN HORN. You mentioned in response to a question by Commissioner Rankin that it was more difficult to place Appalachian whites than blacks and that many restraints on housing mobility you felt were class-oriented. I wonder if you could elaborate on some of the cultural factors involved in the movement of Appalachian whites and blacks into housing of a similar or higher economic level in the predominantly majority and middle class, upper middle class areas.

What are some of the factors that cause these fears of Appalachian whites, let's say?

MR. BERTSCH. The tendency within our region at any rate—and I don't know—at least within urban areas it tends to be true, as far as my knowledge is concerned, the black tends to be an urban person. They know how to live within an urban situation. The Appalachian whites, at least as they come into our region, face a different series of problems.

The same with the Spanish speaking people that come into the Darke County area within our region. The migrant workers. It's a problem of education. It's a problem of attempting to develop a higher and more sophisticated system of social service delivery systems.

This whole program that I referred to called the facilitators' program, the aspect of the FHA program 237, the training programs for those people who will occupy low- and moderate-income housing which has never had funds appropriated for it, these types of programs along with marshaling somehow and focusing within a single strategy not only housing opportunity but evaluating and developing a sharper delivery system for the required services, these are all aspects that have to be considered.

I think from the standpoint also of the Appalachian white in the groups that we have worked with within the East Dayton community, there is a tremendous family pride which tends to reject to a great extent relocation monies, to reject almost assistance of any kind as being welfare.

If there would be some way that we could overnight change the titles of some of these programs I think that the image and the acceptance of some of the programs might be found to be more helpful to the people to which they are aimed.

VICE CHAIRMAN HORN. I wonder if any of the other members of the panel or you, Mr. Bertsch, might care to comment as to what role the educational system in this area has played in discussing some of these

questions and perhaps dealing openly with the differences in cultural values and backgrounds that both Appalachian whites, members of the black minority, and so on face, and that the majority culture faces. Is there any program underway in this area to get this into the school system?

MR. ANKNEY. Yes, I think most of the schools in the area are moving more rapidly into black studies of all kinds and the whole problem of cultural differences particularly with regard to the blacks. It is steadily increasing. In my 30 years in schoolteaching it has grown rapidly in the last few years.

VICE CHAIRMAN HORN. Do you know if there have been institutes for teachers and special training and programs to deal with some of these problems?

MR. ANKNEY. Yes, definitely.

VICE CHAIRMAN HORN. I notice in the recent statement the President made the following comment:

"In public discussions of fair housing or open housing, however, another issue has often become confused with that of racial discrimination. This is sometimes referred to as economic integration. Frequently it arises in debates over whether subsidized low-rent public housing should be placed in the suburbs as a means of moving poor people out of the inner city, and if so where, to what extent, and by what means."

I take it, Mr. Bertsch, as I understand the thrust of your plan, this is a decision by the politically responsible individuals in this area that if you are going to have indeed fair housing, open housing, that you need to have some sort of economic integration as well in terms of options for that housing spread throughout the area? Is that a correct interpretation of the thrust of your statement?

MR. BERTSCH. I would think conditionally it would be. It is certainly a strategy that was developed locally. I don't know that integration as a goal *per se* is a keystone to the whole plan as much as it is unhindered opportunity for movement.

If integration is a result of that freedom of choice, fine. But we think that we can prove within our region that there are strains which are being placed on people who would like to execute that choice where they are not being given the opportunity, and they don't happen to be black.

So we are saying that there need to be programs which provide for some type of a bonus system for those municipalities that do provide that opportunity. I have not had the opportunity to read the complete text of the President's statement. If in essence by the statement as I understand it he is talking about the placement of priorities for those communities that aggressively develop strategies or develop programs, that there will be some bonuses forthcoming versus penalties—

VICE CHAIRMAN HORN. You would feel your group would deserve the bonus?

MR. BERTSCH. I would feel that our plan would qualify, and I would like to see that philosophy aggressively pursued.

VICE CHAIRMAN HORN. Let me ask you: Of the municipalities in

your various county region, how many of them have restrictions on lot size of, say, 1 acre and above? Do many of them?

MR. BERTSCH. None. The zoning ordinances within our region have lots that range up to let's say 2 acres, but in every political subdivision within our five-county area there also is a range of lot sizes down from there, and in every case the zoning ordinances provide for multiple family structures.

It is not zoning so much that is a restraint within our area as it is the consistent or inaccurate or arbitrary administration thereof.

We find that many times a rezoning application will be treated differently if it is for a luxury apartment than if it is for a 236 project. In other words, there are other factors that are weighed when there are low- and moderate-income or minority people involved.

There are some subdivisions within our region which we feel do not provide a small enough single family lot in order to make, for example, the 235 single family homeownership program work. And we are aiming portions of our programs at attempting to eliminate or, at least, alleviate those situations.

VICE CHAIRMAN HORN. Do you have any feeling as to an appropriate political vehicle above the local zoning board that might be in order to reconcile this problem so the citizen would have the right to appeal on such a zoning issue especially when 235 housing or low-income, multifamily housing is involved?

MR. BERTSCH. We had a recommendation within the plan as it was adopted last October to the commission, staff recommendation, that State law be amended to allow for an override, much akin to the New York provision. That became the focus, that aspect of our plan became the focus, of many within the public hearings and, as a result, that particular portion of the plan as a policy to be pursued in conjunction with the State was eliminated. We might very well reach the point where that would be a very desirable thing to have.

VICE CHAIRMAN HORN. Are there any further questions of any member of the panel?

COMMISSIONER RUIZ. I just have one more question.

VICE CHAIRMAN HORN. Commissioner Ruiz.

COMMISSIONER RUIZ. As to the Spanish speaking inhabitants, are they permanent residents or do they simply go by there?

MR. BERTSCH. We annually have coming to the agricultural portions of our region a great number of Spanish speaking people who are in their own right migrants and moving with the particular agricultural economy that they are following.

We have found that a great number of these people decide to stay and are gainfully employed as residents of the region or in turn come back and stay.

Two years ago there was a program developed by one of our commissioners in Darke County which addressed itself to education, addressed itself to legal rights and housing opportunity. From that developed housing opportunity for 15 families.

COMMISSIONER RUIZ. Do they live in any particular location?

MR. BERTSCH. I would say from a migrant standpoint the major migrant worker influx is in Preble and Darke Counties. There is no identifiable Spanish speaking ghetto within our region.

COMMISSIONER RUIZ. No more questions.

VICE CHAIRMAN HORN. Thank you very much, ladies and gentlemen. We are deeply grateful for your appearance here this morning. As I think is usual in both hearings of this Commission and congressional and other legislative hearings, you find when you talk to the people that are on the firing line at the grass roots, a certain amount of common sense shows through.

We commend you for your efforts, and we thank you for sharing this information and background with us.

The Commission will now stand in recess for 15 minutes, after which we will hear Mr. Brown, the Director of the Bureau of the Census.

VICE CHAIRMAN HORN. Will Mr. George H. Brown, the Director of the Bureau of the Census, and Conrad Taeuber please come to the witness stand?

(Whereupon, Mr. George H. Brown and Dr. Conrad Taeuber were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. GEORGE H. BROWN, DIRECTOR,
BUREAU OF THE CENSUS, AND DR. CONRAD TAEUBER,
ASSOCIATE DIRECTOR, BUREAU OF THE CENSUS, WASHINGTON, D.C.**

VICE CHAIRMAN HORN. Please be seated. Mr. Powell?

MR. POWELL. Mr. Chairman, at our request the Bureau of the Census has prepared a statement describing the population changes in the last decade. We also have some charts which have been prepared in connection with these changes. At this time I would like to have these exhibits entered into the record.

VICE CHAIRMAN HORN. Without objection, they will be inserted in the record at this point.

(Whereupon, the documents referred to were marked Exhibit No. 6 and received in evidence.)

VICE CHAIRMAN HORN. Let me ask you, Mr. Powell, was that chart of the Dayton Plan area also inserted in the record?

MR. POWELL. Yes.

VICE CHAIRMAN HORN. All right. If it wasn't, I would like it inserted at the beginning of that testimony.

MR. POWELL. Yes, it will be.

VICE CHAIRMAN HORN. Okay.

MR. POWELL. Will each of you please state your name and title?

MR. BROWN. I am George H. Brown, Director of the Bureau of the Census, Department of Commerce.

MR. TAEUBER. Conrad Taeuber, Associate Director of the Bureau of the Census, Department of Commerce.

MR. POWELL. We would like to first consider how the Nation's metropolitan areas, particularly those of 500,000 or more, have changed in the last decade with respect to racial residential patterns. These metropolitan areas have had a substantial increase in population during the last 10 years? Is that correct?

MR. BROWN. Yes, that is correct.

MR. POWELL. What has this increase been?

MR. BROWN. The increase for metropolitan areas taken as a total has been higher than the national average, and my recollection is that the increase is around—what, 17 percent?

MR. TAEUBER. Yes.

MR. BROWN. The Nation as a whole increased about 13 percent. The rate of increase in the metropolitan areas as a total was higher, and my recollection is it's in that neighborhood. We can give you the precise figure.

MR. POWELL. Turning to Item 5 of Table 1, is it correct that the increase has been about 14 million? The increase for metropolitan areas of 500,000 or more has been about 14 million?

MR. BROWN. If you sum the items in Item 5 of Table 1, I am sure it will come out to about 14 million in total.

MR. POWELL. Now, continuing to focus on the increase in metropolitan areas of 500,000 or more, how much of this increase has been white population?

MR. BROWN. If you take the metropolitan areas as a whole, as opposed to the separation between central city and suburbs, there is an increase of about 11 million.

MR. POWELL. About 11 million?

MR. BROWN. Yes, about 11 million.

MR. POWELL. How much of this increase has been of the black population?

MR. BROWN. Black population has increased about 3.5 million.

MR. POWELL. During this decade, still talking about metropolitan areas of 500,000 or more, how did the number of whites in central cities change?

MR. BROWN. Within the central city portion of the metropolitan areas, the numbers of white people decreased during the decade.

MR. POWELL. By about how many?

MR. BROWN. By about 2 million.

MR. POWELL. And how did the number of whites in the suburban areas change?

MR. BROWN. The number of whites in the suburban rings increased about 12.5 million.

MR. POWELL. And with respect to the black population, how is the increase divided between central city and suburb?

MR. BROWN. Well, in the case of the Negro population, there was an increase of 2.8 million in the central cities and an increase of approximately 750,000 in the suburban rings.

MR. POWELL. Does the chart show this?

MR. BROWN. Yes. These figures are indicated in the chart that is on display.

MR. POWELL. Mr. Brown, Dr. Taeuber, looking at this in another way, what percentage of central city residents in 1960 were white?

MR. BROWN. In 1960, 80 percent of the residents of the central city were white.

MR. POWELL. What percentage of these central cities were black?

MR. BROWN. In 1960 it was 18 percent.

MR. POWELL. Is this information shown in the chart that is now up?

MR. BROWN. Yes. That is the information on the chart. It was developed from a table in our submission.

MR. POWELL. Turning now to the present picture, how has this changed in 1970? What percentage of the central cities are now white?

MR. BROWN. In 1970 the percentage of white in the central city is down to 74 percent from the 1960 level of 80 percent.

MR. POWELL. And what percentage of the central cities are now black?

MR. BROWN. In 1970 in the central cities of these metropolitan areas of 500,000 and over it was over 23 percent, almost 24 percent, up from 18 percent in 1960.

MR. POWELL. So that the decline was 6.6 percentage points for whites and an increase of 5.4 percentage points for blacks? Is that correct?

MR. BROWN. Yes, sir.

MR. POWELL. Now, looking at the suburbs, what percentage of suburbanites were white in 1960?

MR. BROWN. In 1960, about 96 percent of the suburbs were white.

MR. POWELL. What percentage of the suburbs were black in 1960?

MR. BROWN. 4.2 percent in 1960.

MR. POWELL. Turning now to the present picture, have these percentages changed to any appreciable degree during the last 10 years?

MR. BROWN. There has been a very slight increase in the percentage black, going from 4.2 to 4.5. Since this is a census, those percentage changes can be taken as significant measures.

MR. POWELL. This information is shown on the charts?

MR. BROWN. Yes, that information is shown on the exhibit.

MR. POWELL. The difference between 100 percent, 94.3 and 4.5, does that relate to other races?

MR. BROWN. Yes, it does.

MR. POWELL. Now, Mr. Brown Dr. Taeuber, if we look at these changes in still another way, if blacks were represented in the suburban increase to the same extent as they are represented in the metropolitan population, what percentage of the suburban increase would be of blacks?

MR. BROWN. Well, in 1960 18 percent of the population in the center city was black. And if the proportions migrating to the suburbs were the same for Negro and white, you would expect 18 percent of the people migrating from the central city to the suburbs to be black.

MR. POWELL. Well, what was the actual rate of participation, black participation, in the suburban increase?

MR. BROWN. It is 9 percent as shown in the exhibit. On the other hand, if you take it from the point of view of the percentage of the blacks who were in the suburbs in 1960, which was about 4 percent, as against the 96 percent or 95 percent for white, if the immigration had preserved the proportions that were in the suburbs in 1960, it would be 5 percent as compared to the 9 percent.

MR. POWELL. But the suburban increase doesn't reflect the percentage of blacks in the metropolitan area as a whole?

MR. BROWN. No, and the percent Negro that was in the center city was higher than the percent that was Negro among those who migrated to the suburbs in the sixties.

MR. POWELL. And less than the percentage of blacks within the metropolitan area taken as a whole?

MR. BROWN. Yes.

MR. POWELL. Looking at the blacks in suburbs, of which you say there has been an increase of a little over 750,000, do you have any information about where these people are living in the suburbs, these black people who have moved to the suburbs in the last 10 years?

MR. BROWN. We are just beginning to get this information. This comes from the census tract analysis and calls for the full detail by census tract. We have published materials for two cities so far and are in the process of going through the balance of the cities, and I would expect, Dr. Taeuber, we will have census tract data which will show race by census tract within the next several months. Is that correct?

MR. TAEUBER. Yes, we will.

MR. BROWN. But as of right now we do not have that.

MR. POWELL. To what extent would you say that the black increase in the suburbs is a spillover from central cities, just an increase over the city line into the suburbs? Is there any indication that black increase is a reflection of that phenomenon?

MR. BROWN. We only have data for the two cities that I have mentioned, and my own feelings are that we should wait until we have the additional information before we at the Bureau try to draw any conclusions with respect to the particular point that you are talking about.

I think it's quite appropriate, of course, to look at such evidence as does exist, but you should recognize that it represents only two out of hundreds of cities.

MR. POWELL. What are the two cities that you have looked at?

MR. BROWN. Washington, D.C. and Cleveland, Ohio.

MR. POWELL. Does your analysis of these cities show that blacks are living in integrated situations or are they concentrated in racial ghettos in the suburbs?

MR. BROWN. I have not examined the information in that depth for those two cities. We have that under analysis right now and would be pleased to submit the information that we have along with an analysis, but I would prefer to take a little time to study that particular point.

We had planned to wait until we had more cities to work with rather

than to execute this analysis for just these two cities. However, we do have the information and will be very happy to supply it.

MR. POWELL. When you obtain more detailed information, would you provide the Commission with that information?

MR. BROWN. We would be very pleased to do so.

(This information appears on p. 1095.)

MR. POWELL. Mr. Brown, Dr. Taeuber, it is often said that lower income accounts for the extent to which blacks live in central cities rather than in suburbia. How adequate an explanation is this?

MR. BROWN. Well, the tabulations that we submitted and which I see are now on the exhibit indicate that the percentage of Negroes living in the central city goes down slightly as incomes rise but, as you can see, for families less than \$4,000 there's 85.5 percent who live in the central city in SMSA's of about one million or more.

When the income goes to \$4,000 to \$10,000, that drops to 82.5. And for persons with more than \$10,000 it is 76.8.

If you take a look for the white population, you will find that for incomes less than \$4,000 it is 46.4 percent who live in the central city, which compares to the 85.5 for the Negro population. As you rise in the income scale, \$4,000 to \$10,000, that drops to 41.6 for the white population compared to 82.5. And for \$10,000 and more, to 31 percent among white families compared to the 77 percent among black families.

MR. POWELL. So there are more people of the white population earning under \$4,000 living in the suburbs than blacks who earn over \$10,000 living in the suburbs? Is that correct?

MR. BROWN. That is correct.

MR. POWELL. In discussing the segregation of blacks it is sometimes pointed out that other ethnic or minority groups have lived in segregated ghettos when they first arrived in the large cities. Later, however, members of these groups have moved quite freely, some staying in ethnic neighborhoods, others moving throughout the metropolitan area. Are blacks following this pattern?

MR. BROWN. I am not in a position to comment on that. Dr. Taeuber, I don't know, are you familiar with studies that have been made of this phenomenon for other groups?

MR. TAEUBER. No, we have very little information for individual groups, but obviously from these figures at the present time blacks have not moved to the suburbs to anything like the extent to which we have found this for the descendants of the earlier immigrants.

MR. POWELL. Since economics doesn't completely explain it, it must be due to some other factors, wouldn't you say?

MR. TAEUBER. That could well be.

MR. POWELL. Turning now to the future, let's consider what metropolitan areas will look like 10 or 15 years from now. The substantial black increase in metropolitan areas has been to a great extent the result of migration of blacks from the South to the North and from rural areas to urban ones? Is that correct?

MR. BROWN. It has been partly due to that. It has also been very substantially due to the natural increase—that is, excess of births over

deaths—among families who are in the central cities or in the suburbs.

MR. POWELL. Can we expect this phenomenon to continue?

MR. BROWN. This is a judgment factor, and I would think that the members of the Commission probably are in the best position to make that judgment. I think our contribution should be to spell out as clearly as we can for you the history up through 1970. The projection of trends is, of course, a professional kind of judgment. But I would think there are many people who are able to make those projections.

I think that we should concentrate our attention on the trends through 1970 and let the members of the Commission and the experts they may call on make the projections through the next 10 years or so.

MR. POWELL. Looking at the concentration of blacks in the cities, even without migration, wouldn't you say that the black population would rise by virtue of the excess of births over deaths?

MR. BROWN. If past patterns continue there is no question but what the percentage of black people in the central city will rise because there has been an excess of births over deaths.

As we pointed out in our testimony, the age group of the Negro population in the central city is concentrated in the younger or child-bearing age groups, and that factor would indicate that there should be continued increase in population. We can also predict with certainty that there will be a continued excess of births over deaths among the black population or Negro population in the central cities.

Whether they will stay in the central city or whether they will migrate to the suburbs or elsewhere is a matter that I do not care to make any prediction on except to just say that past trends have not been that way.

MR. POWELL. Are there Federal policy questions which have a bearing on the future distribution of the population within our metropolitan areas?

MR. BROWN. This is a matter of discussion and debate and, I think, in general, yes. But what policies, to what degree, is a matter of discussion, and I am sure there are people who will bring this information before the Commission.

MR. POWELL. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Thank you very much, Mr. Powell. Commissioner Ruiz, do you have any questions you would like to ask at this time?

COMMISSIONER RUIZ. Do you have any census tracts on the boards with relation to Spanish surnamed persons residing either in New York or Los Angeles?

MR. BROWN. I don't think so.

MR. TAEUBER. We have not completed the tabulation of any of that material from the 1970 census. We will have, once the census tract materials are fully tabulated, information for the persons of Puerto Rican origin and those of Mexican American origin. We also will identify the Spanish surname group, and we will identify persons of other Spanish origin—the Cuban population, for example.

COMMISSIONER RUIZ. How long do you anticipate it may take for

you to get the first work out along that line?

MR. TAEUBER. For the States in which these people are particularly numerous—namely, California and New York—it will be very late this year or early next year before that is completed.

COMMISSIONER RUIZ. Thank you.

MR. BROWN. The work is progressing right now, and it is a matter of getting the publication through the system to complete the analysis of the forms to do the processing. But the plans are already there and the work is in process and will be coming out for some States before the end of the year.

But, as Dr. Taeuber said, our current estimate of the completion of the total tabulations, with particular reference to the Spanish speaking people, will go into the early months of next year before finally completed for the United States, and the very large States are the ones that as a rule come late in our tabulation schedules.

COMMISSIONER RUIZ. You are not leaving that toward the end? I mean you are working right along with respect to the overall program?

MR. BROWN. Yes, sir. And all the arrangements have been made, and all the plans have been set in place, and it is purely a matter of just the calendar time to complete the plan that has already been developed and is in existence.

And, as Dr. Taeuber says, it will not only be Spanish surnames but it will also take advantage of the other questions that were in the 1970 census that will enable us to separate out Mexican ancestry, Spanish speaking people, Puerto Rican, and the other various groups of Spanish speaking peoples.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Brown, these charts have shown the trend of the migration of Negroes or blacks toward the central city. Could that trend change just as rapidly the other way in the next two decades? I know you hate to say anything about the future, but in your experience with statistics, they can change the other way, can they not, due to outside influences and other things?

MR. BROWN. Yes, changes can take place. Ordinarily in social statistics there is a momentum or continuity of trends. But it is always possible for changes to take place.

For example, you will notice in the migration among the white people from South to North there was change in the last 20 or 30 years from a net outmigration of white people from South to North to a net immigration of white people from North to South. So change can take place.

Now, that was signaled by slowing down in the rate of outmigration and then a crossover to a pickup to a net immigration.

COMMISSIONER RANKIN. You would then consider it possible that living in central cities might again be made attractive to white people due to how handy it is to live there, how easy it is to get to work, and all that? Could living in a large city be made attractive again to white people?

MR. BROWN. Of course, this is a matter to—

COMMISSIONER RANKIN. I understand.

MR. BROWN. —to take into consideration among a number of people. I would say it is possible. The question is how probable. And I'm sure this is what the Commission will be working at.

COMMISSIONER RANKIN. Okay.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. Mr. Brown, I'm interested in the difference between homeownership and rental status for both categories of people in the suburbs and the city over these past few decade years. Do you notice anything significant?

MR. BROWN. In the materials we supplied the Commission we pointed out that there had been a slight rise in homeownership among the Negro people living in the central cities and in the suburbs. In the case of the white population in these metropolitan areas there was very little change, slight rise in the central city as I recall and a slight decrease in the suburbs.

However, of course, the level of homeownership among the Negro people was below the level of homeownership for the white people in both the central city and in the suburbs.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Brown, while you declined to make any predictions or trends, I would like to ask if the Bureau of the Census has in the past or going back to the 1960 census, did you make any reports concerning or predictions based upon the 1960 census of the manpower goals for the 1970's in terms of employment? Does the census make any predictions based upon census data on other subjects?

MR. BROWN. Yes. We do make what we call projections, which are somewhat different from a prediction. A projection simply says that if the past trends continue the way they have and changing at the rate that they are changing, then, if that is so, we do the arithmetic which will say how the particular statistics will look 10 years from now.

But this then raises the question as to will it continue or won't it? And that becomes the prediction.

COMMISSIONER FREEMAN. Well, I would like to ask you would you then make a projection on the basis of what your 1970 census has indicated as to—

MR. BROWN. We have already done this.

COMMISSIONER FREEMAN. Would you state then what your projection would be of the 1980 population of the suburban metropolitan areas as to race?

MR. BROWN. Well, if you project the trends that have been identified for the last several decades, including 1960 to 1970, a projection would indicate three things:

We would expect the metropolitan areas as a total to grow faster, slightly faster, than the total U.S. The rate of growth, difference between metropolitan and U.S., is steadily narrowing, but we would still expect it to grow.

We would expect the suburban ring to grow much more rapidly than

the central cities. This would be the projection.

We would expect the percentage of Negro people living in the central city to rise because it has been rising for the last several decades, and the projections would say that.

And then the percentage of Negro people in the suburbs on a projection basis would remain relatively constant, rising, but rising from, say, the 4.5 percent basis that we are talking about to possibly 4.6 or 4.7.

Now, that is just a projection. That is not a prediction of what will happen.

COMMISSIONER FREEMAN. Standing still or moving backward?

MR. BROWN. Well, generally, our projection is simply to say what took place between 1960 and 1970 and compare that change with the change that took place between 1950 and 1960, and then to extrapolate for 1960 or 1970. The projection would just simply say: If those things continue the way they have for the last 20 or 30 years, then the next 10 years would look this way. But that says "if" and that is why I called it a projection rather than a prediction.

COMMISSIONER FREEMAN. Thank you.

MR. BROWN. We are happy to do that arithmetic.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I don't have any questions.

VICE CHAIRMAN HORN. Mr. Brown, I'd like to ask you have you ever projected beyond the next 10 years taking the past population trends as the base?

MR. BROWN. Yes, we have population projections that have gone through the year 2000, for example.

VICE CHAIRMAN HORN. Well, this leads to the only question I want to ask. I would appreciate having the Bureau of the Census furnish for the record, based on the current situation in suburbia and the central city, along the lines that Commissioner Freeman asked, a projection of population for the year 2020, 50 years from now, assuming that there is no further access to the suburbs for Negroes than there has been at the present time.

Is it possible that this can be done in terms of established statistical procedures? I'd like to know what the population of this country is going to look like in 2020—whites, blacks, suburbs, central city, based on the birth rate statistics in particular.

MR. BROWN. To take a 50-year period ahead is extremely risky. You can put the arithmetic through. We have done a good deal of work on the next 15 years, which we think is a much better basis for extending projections or extrapolations of past trends.

VICE CHAIRMAN HORN. That gets us to 1985.

MR. BROWN. 1985.

VICE CHAIRMAN HORN. Can we get us to the year 2000?

MR. BROWN. Yes, we have reluctantly gone to the year 2000, and, as you can see, the arithmetic can just be carried on, but you have to begin to make a large number of assumptions, —

VICE CHAIRMAN HORN. Yes.

MR. BROWN. —particularly with respect to unchanging fertility rates, unchanging social situations, and they to us become so unrealistic that we are very hesitant about even doing the arithmetic on request.

VICE CHAIRMAN HORN. Well, I know there is a great difficulty, and a lot of fallacies can get built in. But I think what I'd like to illustrate is if you assume no movement—and obviously we are all hopeful there will be movement—

MR. BROWN. That's right.

VICE CHAIRMAN HORN. —between central city and suburbs for both whites and blacks at differing economic levels—but if you assume the status quo I'd like to see the shocking figure of what this country would look like really in the year 2000, if you will. I'll chop 20 years off the request. That's 30 years from now. If that could be furnished for the record, I would appreciate it.

(The information referred to appears as Exhibit No. 57.)

If there are no further questions, I want to thank you gentlemen both for the excellent full statement which you have given us as well as your response to these questions and the charts which the Bureau of the Census has prepared.

We are indeed grateful for this insight. Thank you very much.

Will Mr. Roy Littlejohn, the Chairman of the Washington, D. C. State Advisory Committee to the United States Commission on Civil Rights please come forward?

(Whereupon, Mr. Roy Littlejohn was sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. ROY LITTLEJOHN, CHAIRMAN,
WASHINGTON, D.C. STATE ADVISORY COMMITTEE TO
THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

VICE CHAIRMAN HORN. Please be seated.

We are glad to welcome you here, Roy. You are a former member of this group—at one time an Assistant General Counsel of the Commission. We are delighted to have another Assistant General Counsel, Mr. David Hunter, begin the questioning.

MR. HUNTER. Mr. Littlejohn, could you please state your name, address, and position for the record?

MR. LITTLEJOHN. Yes. My name is Roy Littlejohn. I live at 7223 - 16th Street, N. W. I am president of Roy Littlejohn Associates.

MR. HUNTER. You have a position with the State Advisory Committee—

MR. LITTLEJOHN. Yes, I am Chairman of the D. C. Advisory Committee to the U.S. Commission on Civil Rights.

MR. HUNTER. Since the Commission is holding this hearing in Washington, D. C., we thought we should take some time to look at what is going on in the Washington Metropolitan Area. As a start for doing that, could you explain to us briefly in what respects this metropolitan area is similar to others and, perhaps more importantly, in

what respects this metropolitan area is different from other areas?

MR. LITTLEJOHN. Yes. But before I address that question, I would like to thank the Commission for affording us this opportunity to appear before you and to share with you our views about our problems in the District of Columbia.

With that in mind, we would like to indicate that our problems in the District of Columbia in many respects are not unique. Washington, D. C., like most major cities in the Nation today, is plagued with a multiplicity of problems. It is experiencing a critical housing shortage, especially for low- and middle-income families. It is experiencing a serious problem of crime, spiraling welfare costs, and numerous problems associated with the administration of our public schools.

Importantly, with the dramatic need to deal with these problems, the District faces severe financial problems because of a declining tax base and an inability to impose a nonresident income tax.

Washington is similar to most other major cities in that the central city is losing jobs to the suburbs. Not only are private firms relocating in the suburbs, many Federal agencies are moving to the suburbs as well.

With the movement of the Navy Department to Northern Virginia, the District suffered its first absolute loss of Federal jobs, and with the loss of jobs there is a loss of income to the city. And if housing and facilities for low-income families are not provided in the suburbs, then the District of Columbia is forced to provide these services even though it does not have income being derived therefrom.

I must state that the single most important factor which distinguishes the District of Columbia from other major cities is not its per capita income or the extent of its social dysfunctioning or any other such indicators. Rather, the District of Columbia is clearly distinguishable on the basis of its inability to deal with its internal problems.

Washington, D. C. is a Federal city. It is America's last colony. And more than that, it is an island surrounded by political jurisdictions that view the District and its predominantly black population with fear and disdain.

These jurisdictions also have important economic, social, and political interests that are often in conflict with the best interests of the residents of the District of Columbia.

To state the proposition differently, we are a colonized people in the District of Columbia where even the illusion of power is often missing from important segments of our lives. Even though we now have the right to vote for President, Vice President, a nonvoting Delegate to Congress, and a school board, we are still denied the right to vote for mayor, members of the city council, and other important positions.

Major decisions affecting our lives are still being made by congressional committees who have never had our interests as their first concern. This situation will not change until we obtain home rule.

Washington is different from most other large urban centers in that it has already become majority black. To many observers this is the main reason why we have not been granted home rule. Washington is

simply the forerunner of a pattern that is being followed in Gary, Atlanta, Newark, and many other cities where the majority of black population is already increasing and where there will be shortly a majority.

This pattern of black immigration to cities and white flight to the suburbs has been developing for some time. In Washington some black families financially able to do so have been moving to some suburban areas but, according to the 1970 census, the black suburban population is still less than 8 percent.

It was estimated that the District population would reach 800,000 by the 1970 census. As it turns out, however, the population declined to 756,510.

I believe, sir, that these are some of the similarities and problems and differences in problems as we view the Washington situation and compare it with other metropolitan areas.

MR. HUNTER. Thank you, Mr. Littlejohn.

Could you now describe for us the activities of the D. C. SAC that relate to the subject of our hearing this morning?

MR. LITTLEJOHN. Yes. The D. C. Advisory Committee conducted an investigation last year of the movement of Federal facilities to the Washington suburbs. In this inquiry we especially focused on the HEW move to Rockville, Maryland, affecting some 5,000 employees, and the Navy Department move to Northern Virginia, involving approximately 12,000 employees. We also received information concerning the moves of the Atomic Energy Commission, the National Bureau of Standards, and an attempted Labor Department move.

I would like to present a copy of the report of the D. C. Advisory Committee to you at this time for inclusion in the record.

MR. HUNTER. Mr. Chairman, could that be included in the record?

VICE CHAIRMAN HORN. Without objection, it will be inserted in the record at this point.

MR. HUNTER. Thank you.

(Whereupon, the document referred to was marked Exhibit No. 7 and received in evidence.)

MR. LITTLEJOHN. I must add that this document has not been released to the public. We hope to have the final version of the report reproduced and available for general distribution in a few weeks.

Our most significant finding we believe is that even though there is civil rights legislation, an Executive order, and agency regulations requiring that consideration be given to the availability of low- and moderate-income housing, adequate transportation, and a positive economic and social influence, moves took place without adequately considering these factors.

We further found that the employees affected by these moves were not consulted prior to the decision to move. Nor were the interests of the lower grade and minority employees adequately considered.

As a result of these moves, the number of minority employees in the new facilities tended to decline.

We learned that there is substantial office space to be leased in the

District of Columbia, and, importantly, there are large areas in the District that could be developed for use as Federal office space. In spite of these facts, Federal agencies have apparently chosen to relocate in the suburbs.

We were told by the black residents of suburban Maryland and Northern Virginia that housing for low- or moderate-income families in the suburbs was almost nonexistent and that discrimination is still widespread and the atmosphere is unfriendly.

Other findings include:

The percentage of blacks in the suburbs has remained constant and in some cases the percentage has declined, despite the dramatic increase in suburban population.

Federal housing programs have served to reinforce the pattern of segregation.

The District Government, though directly affected by such moves, is not consulted and is powerless to protect its citizens.

Based on these findings, the D. C. Advisory Committee recommends:

1. An immediate moratorium should be put into effect on the movement of all Federal installations and facilities to the Maryland and Virginia suburbs until the following steps have been taken:

- (a) The Federal Government should develop a clearly defined and uniformly enforced policy with regard to the movement of Federal facilities, which includes obtaining guarantees from the surrounding jurisdictions that adequate housing for low- and moderate-income employees and the transportation and community services that they would normally require will be provided on a nondiscriminatory basis and at a reasonable cost.
- (b) When a move is contemplated, employees should be informed as soon as possible and the issue should be a mandatory subject for collective bargaining between the agency and its employee organization.
- (c) Hearings must be held which will give all parties an opportunity either to oppose the move or to present testimony or evidence concerning the move before it is approved.

2. The Federal Government should establish a centralized unit with representation from agencies with responsibility for locating facilities in the Washington Metropolitan Area to coordinate all matters relating to agency movement.

3. The District of Columbia should establish an office of Federal agency movement within the District of Columbia government to deal with the issue of job site locations within the District and to establish working relationships with the Federal agencies employing its citizens and providing income to the city.

4. The General Services Administration, which has the responsibility for acquiring space for many governmental agencies, should enforce more vigorously its own policies with respect to locating sites in areas with housing for low- and moderate-income employees.

Mr. Chairman, members of the Commission, we realize that even if

all of our recommendations are favorably considered by the appropriate governmental units, the quality of life of the majority of blacks in the District of Columbia will not be substantially improved. This is the case because the question of improving the quality of life of D. C. residents is infinitely more complex than devising stopgap means and measures to cause the Federal Government to address the housing needs of its employees in any contemplated move.

A consideration of this point requires that we address fundamental questions about the acquisition and retention of economic and political power. Some of these questions with which this Committee has struggled are:

One, how does a people constituting approximately 11 percent of the total population—that's nationwide—and distinguished by color, in a society that is racist, achieve an equitable position in the body politic?

A second question is: Is it realistic to expect that such a minority group can achieve equitable treatment absent having elected representatives from that group participating in the decisionmaking processes at all levels of government?

A third and final question is: Assuming that the answer to the above question must be in the affirmative, shouldn't the primary focus of the strategy for civil rights in the 1970's be on enhancing and facilitating the building of actual or potential power bases so as to assure a more equitable position in the body politic?

We submit that a consideration of these questions will put our recommendation in proper focus and context.

MR. HUNTER. Thank you.

VICE CHAIRMAN HORN. Thank you, Mr. Littlejohn.

If the other members of the panel will come forward, we will hold the questioning by the members of the Commission until after the conclusion of that panel.

Will Mr. Gibson, Mr. Grier, Mr. Harvey, and Mr. Scott please come forward?

(Whereupon, Mr. James Gibson, Mr. George Grier, Mr. James Harvey, and Mr. James Scott were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. JAMES GIBSON, PRESIDENT, METROPOLITAN WASHINGTON PLANNING AND HOUSING ASSOCIATION, INC.;

MR. GEORGE GRIER, SENIOR ASSOCIATE, WASHINGTON CENTER FOR METROPOLITAN STUDIES;

MR. JAMES HARVEY, EXECUTIVE DIRECTOR, HOUSING OPPORTUNITIES COUNCIL OF METROPOLITAN WASHINGTON; AND MR. JAMES SCOTT, EXECUTIVE DIRECTOR, WASHINGTON SUBURBAN INSTITUTE, WASHINGTON, D.C.

(Mr. Scott's prepared Statement appears on p. 1589.)

VICE CHAIRMAN HORN. Thank you. Please be seated.

MR. HUNTER. Would each of you, please, with the exception of Mr. Littlejohn, state your name, address, and position in your organization for the record? Mr. Harvey?

MR. HARVEY. I'm James H. Harvey, executive director of the Housing Opportunities Council of Metropolitan Washington. We are located at 711 - 14th Street, N. W.

MR. HUNTER. Mr. Grier?

MR. GRIER. I am George Grier. I am senior associate of the Washington Center for Metropolitan Studies, located at 1717 Massachusetts Avenue, N. W.

MR. HUNTER. Mr. Gibson?

MR. GIBSON. I am James O. Gibson, the president of the Metropolitan Washington Planning and Housing Association, which is located at 1225 K Street, N. W.

MR. HUNTER. Mr. Scott?

MR. SCOTT. I am James M. Scott, executive director of the Washington Suburban Institute, 3928 Old Lee Highway, Fairfax, Virginia.

MR. HUNTER. Thank you. We would like to start with a consideration of the demographic patterns in the metropolitan area, the racial patterns, and the changes that have taken place in the last 10 years. We have a map that Mr. Grier brought showing that, if that could be put up.

MR. GRIER. May I help get that out here?

MR. HUNTER. Yes.

(See maps pp. 568-70.)

VICE CHAIRMAN HORN. Do you want to use this microphone and speak to illustrate it or what?

MR. GRIER. Yes, sir, if I can just get my notes.

There are some rather dramatic changes that have occurred in the racial patterns of Metropolitan Washington during the past 10 years. As the testimony of the Census Bureau officials earlier indicated, this does not appear to be typical of metropolitan areas nationally.

Nevertheless, we believe that Washington can be, and perhaps is, a forerunner of population patterns which may begin to show up in other metropolitan areas across the Nation.

In 1960 Metropolitan Washington showed a phenomenon that we called the "white doughnut"—with a heavy black concentration in the center, a heavily white suburban ring, and then on the outskirts of the metropolitan area again higher black concentrations which were remnants of the old plantation pattern of development which had dominated this area until about the time of the Civil War. And these black families were still resident out there and were largely farmers on land on which they had formerly been slaves.

But every place that suburban development had gone, the blacks had been outnumbered by the whites to the point where those areas became whiter.

What happened between 1960 and 1970 is in our view very dramatic and also very important. What happened was essentially that black population began moving outward generally in small percentages to most of the suburban ring inside the Capital Beltway.

Now, the Capital Beltway is a circumferential highway which completely surrounds the District of Columbia and is shown by this line on

this map.

Inside the Capital Beltway, a very substantial degree of desegregation occurred with black families moving into most areas of the suburbs, but inside the beltway.

Outside the beltway, however, the black proportion in many cases decreased.

Now, without the overlay, you can see the increase, and you can see how closely it parallels the route of the beltway or is bounded by the route of the beltway.

And when we overlay this celluloid over it, we see the areas of decrease in black proportion.

You can see now that the white doughnut has moved out further and is now out here on the outskirts of the metropolitan area. But blacks are moving quite broadly into the inner-ring suburbs, and they include many of our most prosperous suburbs. There are substantial increases in black population in Montgomery County.

However, I would like to make clear that most of the increase in black population in suburbia has occurred in Prince George's County, this area to the east of the District, and slightly less than half of the black population in the suburbs now lives in Prince George's County.

MR. HUNTER. Thank you, Mr. Grier.

If we could turn now to Mr. Harvey, could you discuss for us perhaps why the black population is moving in some directions and not others? Why is the larger concentration in suburbia in Prince George's County and not in some of the other counties of the metropolitan area?

MR. HARVEY. I think for three reasons, three principal reasons.

One, in Prince George's County you have had a black population that has been located there for a long period of time. You have a couple of all-black towns or communities in Prince George's County. So as those communities tended to increase, they tended to attract more blacks to that particular area.

Secondly, what we find in our program efforts is that there has been some definite steering of blacks to that particular area—that is, steering on the part of the real estate community, that says: "We are willing to sell or rent to blacks in that particular area." Also, I think because of the amount of growth that has taken place in Prince George's County and the price of housing is perhaps within the means of a number of black families who are seeking housing in the suburban areas.

MR. HUNTER. As far as the steering is concerned, is advertising of real estate a part of that problem?

MR. HARVEY. Well, we have found that some developments that were insured by FHA were advertised in such a way to definitely attract black buyers. That is, they used black models in their advertising and we haven't found the use of black models in advertising with other kinds of real estate.

And upon further investigation, we found that the salespeople at these developments were specifically discouraging whites from buying and they would tell whites that they had other developments in which they thought that they would be happy.

So that we found that advertising is a great part of the marketing of real estate and if this is racially slanted, then the results are segregated communities.

MR. HUNTER. Thank you.

Mr. Grier described for us this doughnut-like process that we have going on where part of the metropolitan area, most of the suburban area, is part of a white doughnut, while we have the center part which is increasingly black. I would like to consider now the role that the Federal Government has in creating that situation.

Mr. Gibson, could you discuss for us what effect this has on the displacement of Federal facilities?

MR. GIBSON. Yes, Mr. Hunter. As Mr. Littlejohn pointed out in discussing some of the recommendations of the SAC and some of the information which they have been dealing with, since about 1963 about 87 percent of Federal Government office operational expansion has gone into the suburbs rather than into the central city.

When I was on the Planning Commission, the National Capital Planning Commission, a few years ago, I introduced a resolution which was adopted by the Planning Commission which required that in its consideration of projects, Federal projects, around the region, which is its responsibility, and the planning and placement of those projects, that it should add to the kinds of considerations it was making factors related to race and income.

No project of the Federal Government is permitted to go into a jurisdiction in this metropolitan region if that project imposes a traffic load which the surrounding streets and road networks cannot handle.

It is reviewed for its design, for its traffic impact.

It is reviewed for the kinds of materials which shall go into the exteriors of the facilities and buildings.

And it is reviewed in any number of ways.

Until very recently there was no policy at the National Capital Planning Commission which required that employment-generating facilities going into the suburbs should be reviewed with regard to the access of housing which correlated with the income and racial mixture of the staffs which were being moved to those areas.

We found in the early preliminary examinations related to that kind of questioning on the part of the Planning Commission that there was a strong correlation, and I think the Civil Rights Commission a few years ago published a study which showed that there was a strong correlation between moves from the central city by Federal agencies and ultimate loss of jobs by nonwhite workers because of the, on one hand, lack of access to adequate public transportation and, on the other, the lack of housing within economic reach which was free of racial discrimination in their merchandising and rental patterns.

So that that sort of framework has been operative here.

The policies have been passed by the Planning Commission which would at least add that amount of discerning review to the Federal Government moves. But the kind of implementation, the follow-through on that kind of policy, remains a difficulty as I will discuss in a

moment.

But, at any rate, Mr. Hunter, I think it should be instructive to note that there was 87 percent of Federal expansion moved to the suburbs rather than in the District of Columbia.

Until March of 1970, the District of Columbia had led all the jurisdictions in this region in the amount of federally leased space, with some 6.6 million square feet. However, with the move of the Navy employees to Crystal City, Virginia, it jumped to the top with 7.34 million square feet of leased space.

Most of the Virginia concentration is in Arlington County, with some 27,000 Federal employees, principally in the Rosslyn and Jefferson Davis corridors.

Maryland trails the three jurisdictions with 3.7 million square feet of office space, almost all of which is in Montgomery County.

Now, taking those figures or that citation and going back to Mr. Grier's map, you might notice that while black migration to the suburbs is going east, the Federal migration of jobs is going west along with the white population.

I think that this sort of policy, this dichotomy of Federal policy articulated on one level and Federal implementation specifically applied where the Federal presence has its greatest concentration in the Nation and where through the National Capital Planning Commission and other mechanisms the Federal presence has a jurisdictional authority in effect, I think we can see that the Federal Government is not exempt from the kinds of participation—and collusion if you will—in the factors which have institutionally reflected racial discrimination even to this day.

MR. HUNTER. We will come back to this later, Mr. Gibson.

If we can turn now to another Federal activity, Mr. Grier, what effect has the highway program in the metropolitan area, the beltway and other roads, had on the economic development of the metropolitan area?

(See maps pp. 568-72.)

MR. GRIER. If I may use this microphone again, one of the things that we are noting in some studies that we are conducting right now at the Washington Center is that the beltway is creating a whole series of alternative downtowns—we have identified at least a dozen of them—principally at interesections of the beltway with major radial highways.

There is, for example, the Tysons Corner area over here, and there is the Montgomery Mall area up here, and then there are several on the Prince George's County side as well.

But the most thriving of them seem to be in this area here where there has been less black migration.

Now, to give you an idea of the size of these new downtowns, the Tysons Corner Shopping Center has 100 stores, parking space for 6,000 cars, is at this time believed to be the largest enclosed shopping mall in the United States. There are several larger ones in construction—but at the present time. It is a huge monster of a building with literally thousands of jobs in addition to shopping opportunities.

Around the Tysons Corner Shopping Center are developing a complex of research and development firms offering a great variety of employment opportunities, mainly highly technical, but a lot of service jobs, too.

And now beginning to develop are high-rise apartment houses.

So that a whole new town is, in effect, being created at this beltway interchange. And this is happening at a number of the beltway interchanges. We believe that this is transforming the development patterns of this metropolitan area from a pattern which formerly had a single nucleus in downtown Washington to one which is now multinuclear and has at least a dozen downtowns which are competing with downtown Washington for business and jobs.

Now, downtown Washington, of course, is near where most of the black population lives, and, in effect, what is happening is that the beltway and the associated commercial and industrial and residential development is draining resources away from the largely black District of Columbia and will increasingly do so over the next decade.

MR. HUNTER. Thank you.

If we can turn now to yet another Federal activity, Mr. Harvey, could you comment on the pattern of location of federally subsidized housing in the metropolitan area and how that affects the racial residential patterns in the metropolitan area?

MR. HARVEY. I wonder if I could get that map?

MR. HUNTER. There is a map that will be brought out now.

(See map, p. 572.)

MR. HARVEY. What we did was to get a listing of all of the federally assisted housing that was being built in the metropolitan area and to plot its location on the map in order to determine whether or not the location was in fact perpetuating segregated patterns or whether it was offering additional housing opportunities for the families who needed that kind of housing.

And, as you will see, most of the housing is concentrated in Northeast Washington or the eastern part of Washington there.

Now, this includes the public housing, the rent-subsidized housing, and the interest-subsidized housing, the 235 and 236 programs. And you find as you look out even outside of the District of Columbia and near the beltway that Mr. Grier pointed out that there is very little housing and virtually none when you get outside of the beltway.

So our contention is that because of the policies of HUD and the Federal Government in the site selection of these housing units that they are in fact perpetuating a segregated pattern.

And we also find that this housing is being placed in communities and areas that are already lacking sufficient services to that particular community.

So we find that this is again heaping the poor with the poor and the black with the black and without providing the adequate services that are needed.

MR. HUNTER. Thank you.

We have now considered how three Federal agencies really are con-

cerned with the development of metropolitan areas and how this affects racial patterns—General Services Administration, the Department of Transportation, and HUD. Mr. Scott, in your study of Fairfax County and your experience there, can you describe other ways in which the Federal Government was involved in the development of housing and how this affects racial patterns?

MR. SCOTT. I think the most significant point that can be made as far as our investigations in Fairfax County specifically are concerned is that with respect to housing, employment, transportation, the Federal Government has consistently reinforced those local patterns of discrimination and segregation that have prevailed over the years.

This is particularly true in employment as the Federal Government moves out and its employment patterns are slightly better or as good as the suburban jurisdictions.

It happens in the land development process where the Federal Government in the acquisition of land and the use of land for Federal installations either reinforces or simply refuses to exert its power to change the patterns of suburban development to provide equal opportunity in housing.

This can be seen in the development of Dulles Airport, for instance, and the use of other Federal facilities.

It came to our clear recognition I think in 1967 and 1968 when the black servicemen were returning and unable to find housing.

The pattern continues in Fairfax County where there is virtually no black presence in the land development process. The Federal Government has in its housing programs done nothing as far as we can tell to remedy that situation. And as Mr. Harvey has suggested, as a matter of fact, the very large percentage of the federally subsidized housing that has been constructed in Fairfax County has been constructed in already black communities, further impacting, further concentrating, low- and moderate- income families in black communities.

MR. HUNTER. Thank you.

Mr. Chairman, could we introduce into the record the various maps that we have been looking at during this presentation?

VICE CHAIRMAN HORN. Without objection, the exhibits that we have been viewing during this presentation will be inserted at the appropriate point preceding the commentary that related to them.

Mr. Hunter. Thank you.

(Whereupon, the documents referred to were marked Exhibit No. 8 and received in evidence.)

MR. HUNTER. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Mitchell, do you have any questions?

COMMISSIONER MITCHELL. Mr. Grier, you commented on shopping areas and the location of them. I am assuming you would not object—or you would see as reasonable and generally logical the dispersion of the high-density shopping and business area of a city, assuming there were also dispersed housing opportunities and jobs?

MR. GRIER. Oh, yes, sir. Yes, sir. The concern is only with the fact

that housing available to the great majority of the black population is not being provided in close proximity to these same areas.

COMMISSIONER MITCHELL. Mr. Littlejohn, you suggested a program for Federal moves that would require a variety of things—discussion in advance with employees, possibly collective bargaining of a sort, and a variety of other things. Would you assume that it would be proper for the Government to require similar policies from Federal contractors not only in Washington but anywhere else in the country?

MR. LITTLEJOHN. Definitely. I believe that the Federal Government has a responsibility to use its Federal presence in this regard, and certainly a Federal contractor with substantial Federal funds ought to be able to provide some housing as well.

COMMISSIONER MITCHELL. So the program you are talking about is not just District of Columbia to District of Columbia suburbs? It would apply to any Federal contractor—whether it's McDonnell-Douglas in St. Louis or anywhere else—who would not be permitted to make a move out of an inner-city, following your theory, unless he had first settled his hash with his employees and with some other considerations that were satisfactory to Federal civil rights programs? Is that correct?

MR. LITTLEJOHN. That is correct.

COMMISSIONER MITCHELL. Mr. Gibson, you have talked about the migration of the jobs out of Washington. In fact, all of you have in a way. Do you believe that that movement of jobs is deliberate? Do you think that the Navy Department is racist and is moving jobs out to the west to get away from the blacks who have moved to the east? Or do you believe that there is some colossal stupidity involved here, or some combination of both?

MR. GIBSON. It's definitely a combination of both. It is definitely a combination of overt racism on the part of certain aspects of the decisionmaking that is being made. It is obviously a matter of momentous stupidity because it is setting up a situation which will redound to the disbenefit of that entire region, including the Federal Government.

And also it is a matter of the lack of the understanding that the impact of an administrative decision in an agency can disbalance a region in very serious ways.

And there has not been sufficient review in social and economic terms of the regional impact of administrative decisions within the agencies, and this is I think the primary culpability that I would find with regard to the Federal Government.

I do think, on the other hand, that, as we have found in the press recently, some definite criminal collusion plays a part with regard to this kind of move, because the leasing patterns— You see, it's now possible or we find that most of the moves of the Federal Government recently have occurred not through construction of Federal facilities but through leasing facilities, and much of the building that has gone on both within this city in the Northwest corridor or the Northwest sector of this city as well as outside in the Montgomery and Northern Virginia areas where the building has gone on in large measure— It is possible for the builders and the developers to undertake those large-

scale operations because they have commitments of Federal leasing.

Some of that involves in my view obviously and necessarily criminal collusion.

In addition to that, I think that part of the stupidity that you allude to and which I concur exists within this complex is reflected in the fact that such instrumentalities as the National Capital Planning Commission still do not infuse social and economic reviews of the kind that have impact of this sort in the scrutiny which they apply to Federal moves around this region.

I think that the fact that the District of Columbia which has so many needs because of these changing demographic factors— You see, I don't think that it's bad to have suburbs. I don't think that we should lament the existence of the suburbs. I also don't think that it's unnatural that a certain amount of retail and other sorts of activities would follow those settlement patterns.

But I do think that it is criminal and I do think that it is racist and I do think that it is stupid to think that a central city must go down the drain because there has been a rearrangement of settlement patterns to accommodate growth.

I think that it's criminal and racist to have discriminatory patterns which concentrate high dependent populations in one jurisdiction and permit other people to run across jurisdictional barriers that protect them from the property taxation and other kinds of taxation which should go to afford through public policy and through public services the needs of the bottom rung of our ladder.

We shouldn't have a bottom rung of a ladder here if public policy is appropriate.

But we certainly should not let citizens run behind barriers of artificial jurisdictions to escape from the responsibilities which we have as a Nation to the persons who are at the bottom of our ladder. Because they are systemically there. They have been placed there by circumstances not always under their individual control.

So that stupidity, racism, all these things are mixed up in here.

I find, Mr. Commissioner, for instance, that I do not know how to understand a reneging on the part of President Nixon, a very explicit reneging. When I resigned from the National Capital Planning Commission along with Chairman Hammer, we resigned in 1969 because we felt that the nature of the job which had to be done by that Planning Commission, regional on the one hand with regard to guiding the Federal presence, regional and local in terms of preserving the amenities of the monumental and ceremonial city, and also local with regard to guiding the development of this jurisdiction with its impacting problems because of all the things that we are talking about— We asked the President and we received an explicit commitment from the President in writing that he would reorganize the National Capital Planning Commission so that there would be local planning authorities placed within the hands of this local jurisdiction.

We are at a time when we are beginning the development of a subway network, the largest single network ever built in the world at one

time. It will have fantastic implications in this region for economic development, for alleviating the problems of the underemployed and the unemployed in this area, for all kinds of arrangements that could help us across the problems and that could represent some of those intervening trends that could offset the straight-line projections that Dr. Taeuber and Dr. Brown were discussing earlier.

So that we have to have the fine-grained attention to the movements that are being made. We need to provide in very good quality the local public services, because it's human development which is also going to help us answer some of the problems we have now.

We got an explicit commitment from the President to infuse into the District of Columbia or to give, which is his authority, to the District of Columbia a planning capacity and to recommend to the Congress that it would make those moves necessary to supplement his initiative.

And what we have found is that he has reneged on that. He has not moved. And it is correlated to the fact that as long as development and jobs are moving west with the white concentrations—and that starts with Southwest Washington as well as Northwest Washington and on out into Montgomery County and into Arlington and Northern Virginia—and when we see that there is no initiative from private industry being taken in the eastern part of this city, then it requires public policy and planning moves which would put incentives there, which would weigh priorities or make private development have to face local public priorities.

This is why we need that fine-grained planning control. And yet if we get that, it's going to stop the kind of private industrial initiatives and Government agency participation in leasing programs that makes for the continued development of office and commercial space in the western sector of this city.

Therefore, it will redound to the disbenefit of the current speculator-developer-GSA kinds of patterns of activity.

Now, I believe that the President after his commitment had many representations from persons who are in our Board of Trade and our Federal City Council because they do not think that it's wise to have public policy begin to apply within the District of Columbia in such ways as to spread economic development and to cut out the low-income dormitories that we have made of our minority areas here to put your economic development within them.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Following up on that question, is that a letter you wrote the President, Mr. Gibson, or what?

MR. GIBSON. At the time that I resigned from the Planning Commission along with Philip Hammer who was Chairman, we wrote to the President. We had also negotiated with Mr. Moynihan. It was not, you see, just a shot in the dark. We had negotiated. We had gotten an explicit commitment. There had been discussions between Mr. Moynihan and the President and between us and Mr. Moynihan.

And then we received a letter from the President, both of us, which did explicitly state this.

VICE CHAIRMAN HORN. Would you furnish both your letter and the answer for the record? I would like it inserted at this point.

I would like the staff to ask the Office of Management and Budget for their comments on it as to the feasibility of the policy one way or the other as the Administration sees it.

Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Gibson, you mentioned this action was criminal. Can you give me the law, the criminal law, that was broken by these people? Why haven't they been indicted if it's criminal?

MR. GIBSON. Mr. Commissioner, I think the question of why they haven't been indicted if it's criminal is as much concern to me as it is to you. I was asked whether I believed that criminality was involved and I stated that I did believe so, sir. I also have—

COMMISSIONER RANKIN. Can you point to the law?

MR. GIBSON. I beg your pardon, sir?

COMMISSIONER RANKIN. Can you point to the law, the criminal law, that is broken by these men? I'm interested—

MR. GIBSON. It depends on how you would read it. There are Executive orders and equal opportunity laws—

COMMISSIONER RANKIN. You use that term loosely. It's rather an indictment, don't you see, to say—

MR. GIBSON. Yes, sir. It's an indictment. And I think if you want us to pursue this in a straight line, I would be happy to do so. I don't think, however, that your question right now I can answer. That does not mean it's not answerable.

COMMISSIONER RANKIN. Mr. Littlejohn, you mentioned that you were unable to solve your own problems in Washington. Is it because you don't have the opportunity or are they questions that just can't be solved?

MR. LITTLEJOHN. There are many reasons why we can't solve our own problems. Basically it's because we don't have the power.

COMMISSIONER RANKIN. Can you tell me a city that is solving its own problems now?

MR. LITTLEJOHN. There is a difference, I think, a substantial difference, between the situation that we found ourselves in in the District of Columbia where we don't even have an opportunity to try, as opposed to some other jurisdictions that have tried and failed.

COMMISSIONER RANKIN. You want to try and fail? Is that it?

MR. LITTLEJOHN. No. We think that given home rule, given an opportunity to come to grips with our problems, that we can resolve many of them.

COMMISSIONER RANKIN. I know. I used to believe in home rule, too. But as I study home rule and see instances of it, these problems are so difficult they are nearly impossible to solve. It can be alleviated and we can do better, but some problems are very difficult and, therefore, when you say these problems are unique to Washington, I don't know whether they are. I think all cities have the same problems.

Yes, Mr. Gibson?

MR. GIBSON. Mr. Commissioner, I think you have hit a very impor-

tant point. I think that there is a feeling around the country both in terms of black people and white people that we have reached a point of incapacity to deal with these problems to some extent and that we are helpless in the face of forces that we don't understand and can't control.

Well, sir, I think that that's true in terms of the feeling. I do not think that it's true in terms of the fact.

I think that one of the important things about home rule and that it should be permitted to work not just here but across the country—There are State proscriptions against local option and home rule across the country. And home rule is not a bona fide matter in very many places. But at any rate, sir— And therefore elected governments don't necessarily represent true home rule.

But I believe, if I may sketch it generally, part of the problem and maybe the basis of the problem which we have which has forced us to a point of breakdown is that we are a multiracial, multiethnic, multicultural society, and yet our institutions have never admitted that. Our education has not admitted it heretofore. And we have a record of policy, we have a record of practices, we have built institutions which presume we are uniraical and which therefore wipe people out if they are different from that presumption.

And it's because nonwhites are concentrating in certain jurisdictions now that they can redesign institutions that serve people to fit their priorities.

COMMISSIONER RANKIN. Mr. Gibson, what if the Navy Department had moved to Prince George's County? Do you think the whites would have a legitimate gripe in a situation like that?

MR. GIBSON. You see, it's not the specific move of the Navy. It's the pattern of moves which represents 87 percent over the past decade. I will not get stuck on answering the specific Navy thing. Navy fits a pattern.

COMMISSIONER RANKIN. Any agency, if it moves out toward Arlington rather than toward Prince George's County—

MR. GIBSON. I think there should be moves. I think there should be diffusion of Federal presence throughout the region. I think it would be negative to have all Federal activity in this region impacted in Washington. We couldn't have residential and other functions in the city.

On the other hand, I think that the patterns and practices and policies guiding that movement should be reviewed in other ways than it has been previously.

COMMISSIONER RANKIN. In other words, when Mr. Littlejohn said, "Objecting to movement", we don't object to movement necessarily outside. It might be beneficial if the proper rules and regulations regarding movement are set up—

MR. GIBSON. That's right.

COMMISSIONER RANKIN. Isn't that the point?

MR. GIBSON. Yes, sir. And we have been in court—my association. We have been in court against the Navy, against HEW, against several other specific operations. And we always sought to have them do cer-

tain things—not not to move—but we wanted the moves enjoined if they were not accompanied by certain pertinent factors.

MR. LITTLEJOHN. Dr. Rankin, if I may, you raised the question whether or not our situation in Washington, D. C. was so unique that we cannot deal with it. I'd like to pursue that if I may for just one second.

In the first instance, in our opening statement we indicated that many of our problems in the District of Columbia are similar to problems of other metropolitan areas. However, I think the fact that we are a Federal city, the fact that we are not able to handle our own money, we are not able to raise our own resources, we are not able to handle our budgets, and we are not able to deal with many of the problems that cities of this size are able to address, puts us at a distinct disadvantage.

What we are talking about now is having the Washington, D. C. population become a fully enfranchised population so that we can address these problems.

COMMISSIONER RANKIN. Okay.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Gibson or Mr. Littlejohn, you indicated certain Federal agencies that had moved, and I believe, Mr. Gibson, you said that about 27,000 Federal employees are involved in the move to Virginia and probably an additional number to Maryland. Is that correct?

MR. GIBSON. There's now approximately 27,000 employees in Arlington as a result of fairly recent Federal moves. There are not that many in Montgomery County because the proportion is higher in Arlington.

COMMISSIONER FREEMAN. Do you have an estimate of the number of those employees that would have income of maybe \$6,000 or less?

MR. GIBSON. We do have that information, Mrs. Freeman, but I don't have it with me.

COMMISSIONER FREEMAN. Mr. Littlejohn, do you have it?

MR. LITTLEJOHN. I don't have it with me. We do have the information.

COMMISSIONER FREEMAN. Could you make an estimate about it? Would it be about one-third? One-fourth? Or—

MR. GIBSON. I'd say about 80 percent would be closer to the reality.

COMMISSIONER FREEMAN. Eighty percent?

MR. GIBSON. Under what figure was it?

COMMISSIONER FREEMAN. I said \$6,000.

MR. GIBSON. I'd say substantially more than 50 percent I would imagine, if you take the broad agency situation, because a number of these are very low wage employees, including GS-1's, 2's, 3's. A substantial proportion of agencies are composed of people like that. The professional people, maybe 40, 45 percent.

COMMISSIONER FREEMAN. At what point of income would a person be considered to be in need of federally assisted housing of one form or another?

MR. GIBSON. It depends on what departure you take. If we take the standards promulgated by the Department of Labor which show that a moderate income for a family of four in this country is somewhere above \$9,000 and in this region very close to \$10,000, then it would depend on whether one would expect to have subsidy policies correlated to helping people achieve moderate levels of income and therefore subsidize persons according to the standards as promulgated in that way by the Department of Labor, or whether you would choose some other sort of factor.

I would imagine we ought to conform it to our concept of moderate-income standard.

COMMISSIONER FREEMAN. On that concept then, about half of the employees would have a need for this kind of housing?

MR. GIBSON. I think this is especially true, Mrs. Commissioner, when we do not have public health or do not have health facilities and people can be wiped out by major illness in a lot of respects.

There are a number of factors which families have to contend with, and housing is only one. They have very slim margins and balances in terms of keeping stability. If something unbalances that, such as, for instance, the tremendous cost of higher education, what do they do?

I think it depends on whether you want people, you know, scuffling for survival or we want our population to sort of reflect the image that we have of ourselves.

COMMISSIONER FREEMAN. I think it is generally recognized that the movement of an installation to a community is an economic benefit to the entire community. And with that in mind, I would like to know if you will comment on the statement by the President on Federal policies relative to equal housing opportunity in which it said: "This Administration will not attempt to impose federally assisted housing upon any community."

MR. GIBSON. Yes. I was surprised at the coverage. It was not exactly news.

The President indulged, as I think the National Urban Coalition termed it, in an 8,000-word essay on the difficulties of public administration. And I think that is about the only way one can read it unless you did want to go on and assume that the President was speaking to a political constituency which wanted to hear what he had to say in very explicit terms and that it had some correlation in his mind to where he thinks the votes are in 1972.

Now, that is one way to look at it. On the other hand, I think that I agree with the National Urban Coalition that he confuses the difficulty of that office with some other matters.

We have standards and criteria and rules and law in this country, and I believe, you see, that a Nation of laws and a President who is interested in law and order might bring another kind of configuration in terms of the discharge of the responsibilities about the difficult matters such as race that are his responsibility.

I think he has not been fulfilling those responsibilities. I think he has sold out for political opportunism. And I think that this statement on

housing is in a strong traditional mold that conforms to the Carswell nomination, to his earlier statements on school desegregation which have already been overturned by the Civil Rights Commission, to his moves with regard to I think a number of other matters.

It's a pattern that has been described by some people as a "Southern strategy".

COMMISSIONER FREEMAN. Mr. Littlejohn, could you comment on the communities to which these installations have moved, the extent to which those communities have housing available for low- or moderate-income persons, and the extent to which they are available to black persons?

MR. LITTLEJOHN. Much of the testimony that we received during our open meeting indicated that the housing that the low grade black employees could afford to pay was almost nonexistent. This was in all of the areas to which the Federal Government had moved.

This indicates to us that throughout the region not enough attention had been given to the housing needs of those persons who would have to move in order to retain their jobs.

COMMISSIONER FREEMAN. Thank you.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. I have no questions.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I'd like to ask Mr. Harvey a question. You showed us a map indicating where federally assisted housing had been located in the D. C. Metropolitan Area. Apparently your map doesn't include FHA mortgage insurance assistance, that type of assistance, does it?

MR. HARVEY. No, it doesn't, not under the normal tract development or individual houses. It does not include that. This is primarily the subsidized housing, though I would agree that the FHA-insured is a subsidized program that a lot of people enjoy.

MR. GLICKSTEIN. Where would you think a lot of that housing would be located?

MR. HARVEY. Primarily in the—well, in all three counties, Fairfax, Montgomery, and Prince George's County where you had these huge tract developments that occurred after World War II and really back in the early 1960's.

MR. GLICKSTEIN. But there would be a lot of it in the areas that are nonwhite? Isn't that correct?

MR. HARVEY. Yes. Oh, yes. It would be really difficult to plot that kind of housing. It would include a very substantial proportion of the housing if we included that.

MR. GLICKSTEIN. Presumably, one of the reasons that housing is largely nonwhite, that is federally assisted housing through FHA loans, is because of factors of past discrimination?

MR. HARVEY. Yes, that's true.

MR. GLICKSTEIN. The President in his housing statement the other day did say that one of the policies of the Federal Government was going to be to correct the effects of past discrimination. In that event, there might be a lot of work that needs to be done in those largely now

white areas of the counties here to do that.

MR. HARVEY. Well, I found a number of things very interesting in that 15-page document, in that you read a statement such as that and then you read a little further along where that would be, in effect, taken away.

As an example, even though he says that he will not force any subsidized housing on any community, there was nothing of encouragement as offering any kind of incentive as an example.

We were interested in applying the "carrot and stick" approach, but you find none of this. It was more of a neutral position, a position where it justifies what they are already doing, Number One. And, secondly, it would give comfort to those communities who object to it, who raise barriers.

I think his statement definitely is along those lines. I would think also that this concept of economic integration—It's really not new, you know, particularly to the black community. We have found we have been forced to live in economically integrated areas all along.

Back in my own situation—it may have been an honor—but to live in the same block with a doctor, and we were on welfare. So if that's not economic integration, I don't know what is.

MR. GLICKSTEIN. I have no further questions.

VICE CHAIRMAN HORN. I'd like to ask Mr. Harvey. I notice in the President's housing message he says this: "With more applications than it can fund"—and referring to HUD's role as an approver rather than a site selector—"HUD must select those for funding which it determines most fully satisfy the purposes of the enabling legislation."

Would you say that that would seem to imply that given the large competition of the various applications nationwide that presumably the President is suggesting to HUD, that those that do meet certain of these civil rights considerations that we have discussed in this hearing, some of you gentlemen are discussing, ought to be applications that get the nod before those applications that do not meet those criteria?

MR. HARVEY. Well, if you want to make a positive interpretation of that, I would say yes.

VICE CHAIRMAN HORN. In other words, one can make a positive interpretation of the statement?

MR. HARVEY. Yes, you could. But I think there are several questions whether it's going to be affirmatively applied or not.

VICE CHAIRMAN HORN. That's why the Commission is meeting, and we hope to get into the processes of each agency and the bureaucracy involved to see if it will be affirmatively applied.

Now let me ask you this. One thing that intrigues me in looking at these charts, as one who lived here for 12 years, is the high percentage of black migration into Prince George's County. And the statement was made I believe by Mr. Gibson that the Federal migration of jobs was west while the black migration was to the east.

And I wondered with reference to Northwest Washington west of Rock Creek Park, which is a physical and also a social barrier when you look at the demography of it, what is the relative cost of housing in

Northwest Washington west of Rock Creek Park versus Prince George's County and what explains the fact that black families have not moved into Northwest Washington west of the park as easily as they have moved into Prince George's County, especially since this is a Federal enclave and jurisdiction as opposed to a county in the State of Maryland which is historically a Mason-Dixon State.

Has anybody got any information?

MR. GRIER. I can comment in part on that, Commissioner. The number of blacks that moved into the area west of the park in the District is surprisingly small. The increase I think is, if I can find it here, from only 1,498 in 1960 to 2,874 in 1970, which is a fraction of the migration out to Prince George's.

There's still only 6 percent black in the areas west of the park. Now, the price structure west of the park is certainly predominantly high. There's a lot of very high priced housing out there.

VICE CHAIRMAN HORN. And by "high" we mean roughly \$30,000 and above I would assume?

MR. GRIER. \$30,000 and above, and mostly above. A lot of housing is \$50,000 and above now. So that it is a high cost area.

Most of the housing over here in Prince George's is in the neighborhood of \$25,000 to \$35,000, increasingly up to \$40,000, so that it is somewhat lower, although it is still, as most housing in this area, quite high priced.

So the price is partially an explanation but only partly an explanation because there are substantial areas of Arlington where housing is priced at levels well below levels that are predominant out here in Prince George's which have received virtually no or much smaller black influx. And I would have to say that probably, therefore, wherever you see an area which has not shared in this migration to the extent that P.G. has, you have to ask some questions about whether policies are being applied on the part of the real estate industry to exclude blacks.

I think that probably this is true in substantial parts of the areas west of the park today. So right within the District we are having violation of not only the Federal act but also of the local fair housing ordinance, and I think it is also true, very widely true, in jurisdictions like Arlington.

VICE CHAIRMAN HORN. You mentioned the local fair housing ordinance. This was enacted by the D.C. City Council?

MR. GRIER. Yes, sir.

VICE CHAIRMAN HORN. Administered by an agency under Mayor Washington?

MR. GRIER. Yes, sir.

VICE CHAIRMAN HORN. Why isn't that law being enforced?

MR. GRIER. Well, I think it is being enforced to the extent of the Commission's ability. But Mr. Harvey may be able to comment more on the enforcement.

I'd say, however, that it is probably only through enforcement that blacks are getting over here whereas in Prince George's County they are

being actively encouraged to go there by the real estate industry turning over whole areas which were formerly white to black in a very short period of time and taking the pressure off the rest of these other areas.

So there are interacting policies in the real estate industry. On the one hand they encourage many blacks to move in this direction, and on the other hand a discouragement of movement in this direction generally, both west of the park and in the western suburbs, and the two interlock so that the encouragement here helps to take the pressure off the areas over here.

And I think that is definitely an interacting pattern on the part of the real estate industry throughout the area.

VICE CHAIRMAN HORN. Thank you very much, Mr. Grier. I would like to have inserted in the record at this point, since it has been referred to several times, the statement by the President on Federal policies relative to equal housing opportunity, dated June 11, 1971.

Without objection, it will be inserted at this point in the record.

(Whereupon, the document referred to was marked Exhibit No. 9 and received in evidence.)

VICE CHAIRMAN HORN. Ladies and gentlemen, that concludes the morning session. We will reassemble here at 2:05 p.m., when we will begin a discussion of housing in Montgomery County, Maryland.

(Whereupon, at 12:55 p.m., the hearing was recessed, to be reconvened at 2:05 p.m., this date.)

VICE CHAIRMAN HORN. The afternoon session of the United States Commission on Civil Rights will begin.

We are going to reverse the panels this afternoon. Will Mr. Chapman and Mrs. Garrott please step forward?

(Whereupon, Mr. Troy L. Chapman and Mrs. Idamae Garrott were sworn by the Vice Chairman and testified as follows:)

MONDAY AFTERNOON SESSION

JUNE 14, 1971

TESTIMONY OF MR. TROY L. CHAPMAN, EXECUTIVE DIRECTOR,
MONTGOMERY COUNTY HOUSING AUTHORITY, AND MRS. IDAMAE
GARROTT, PRESIDENT, MONTGOMERY COUNTY COUNCIL

(Mrs. Garrott's prepared Statement appears on p. 1004.)

(A map of Montgomery County appears on p. 611.)

VICE CHAIRMAN HORN. Please be seated. Mr. Powell will begin the questioning.

MR. POWELL. Would you each please state your name and position?

MR. CHAPMAN. My name is Troy L. Chapman. I am currently director of the Montgomery County Housing Authority. However, I have resigned from that position effective as of June 30, 1971 and will assume the position as of July 1, 1971 as executive director of the Housing and Redevelopment Agency for Wilmington, Delaware.

MR. POWELL. Mrs. Garrott?

MRS. GARROTT. I am Idamae Garrott, president of the Montgomery County Council, Montgomery County, Maryland.

MR. POWELL. Mr. Chapman, how long have you held the position that you are in now?

MR. CHAPMAN. As of June 30 I will have been the director of the Montgomery County Housing Authority for a period of 2 years.

MR. POWELL. Mrs. Garrott, how long have you been president of the Montgomery County Council?

MRS. GARROTT. I have been president of the council since December 8, 1970.

MR. POWELL. Mr. Chapman, would you describe briefly the functions of the housing authority?

MR. CHAPMAN. The functions of the housing authority of Montgomery County are basically I would say threefold. The first function is to plan and develop low-cost housing within Montgomery County. Secondly, to occupy those units. Thirdly, to provide services to tenants.

The housing authority basically is involved in three programs—leased housing under Section 23, housing for the elderly which can generally be direct acquisition, and Turnkey Housing which is purchased from developers for those who do qualify.

MR. POWELL. Mr. Chapman, how many units does the housing authority currently have under its control?

MR. CHAPMAN. The housing authority currently has under its control approximately—I say “approximately” because this is a flexible figure—700 units of low-income housing.

MR. POWELL. Mr. Chapman, what is the present population of Montgomery County?

MR. CHAPMAN. I would estimate—again this is an estimate on my part—I would estimate the population of the county is approximately 500,000.

MR. POWELL. Mrs. Garrott, what is the housing situation for low- and moderate-income people in the county?

MRS. GARROTT. The county council feels that there is a very serious problem in providing housing for low- and moderate-income people in Montgomery County. Our government has had a study made, a copy of which I have brought here today—perhaps you might want to enter it into the record—an analysis of the Montgomery County housing stock.

This was made for the department of community development in our county, and it showed some things that our council thinks are very significant.

The median sales price for all housing sold in Montgomery County in

1969 was \$37,500. However, the median price for new housing in the county was \$41,342.

The same report shows that in 1969 there were only four new homes sold in the county for under \$25,000 and that only 29 percent of the used housing sales in the county were under \$25,000.

So we do feel that we have a serious problem in regard to low- and moderate-income housing.

MR. POWELL. Mr. Chairman, with your permission, I would like to have that report entered into the record at this time.

VICE CHAIRMAN HORN. Without objection, it will be inserted in the record at this point.

(Whereupon, the document referred to was marked Exhibit No. 10 and received in evidence.)

MR. POWELL. Mr. Chapman, do you agree with Mrs. Garrott's evaluation? Would you have anything to add?

MR. CHAPMAN. No, I don't. I agree with it wholeheartedly. The housing situation in Montgomery County right now is critical.

MR. POWELL. How many families in Montgomery County, Mr. Chapman, would you say are in need of public housing?

MR. CHAPMAN. That is a very hard question to answer. I can give you an answer based upon the 1960 census and information that has been provided by various governmental agencies to, for example, the council of Governments. We estimate that there are approximately 10,000 families in the county who either qualify through the fact of their income and secondly through the fact of substandard housing.

We can identify either through our waiting list or through the records of the department of environmental health, for example, 2,500 families who are identifiable bodies who are in need of limited-income housing as of today.

MR. POWELL. So while there are 600 people actually in public housing—600 families, that is—there are actually 10,000 families or approaching 10,000 families in need of such housing?

MR. CHAPMAN. Again this is an estimate based upon the 1960 census. It could be higher; it could be lower. I don't have the latest figures. But we estimate—I have been estimating for the last 2 years—that there are approximately 10,000 families who are living in substandard housing in the county today who perhaps do qualify for limited-income housing.

MR. POWELL. Mr. Chapman, what percentage of Montgomery County is black?

MR. CHAPMAN. Again I would have to estimate. I would say approximately 5 percent or less.

MR. POWELL. What percentage of those in public housing are black, Mr. Chapman?

MR. CHAPMAN. Approximately 60 percent.

MR. POWELL. Are the black residents of the county dispersed throughout the county or are they concentrated in certain areas, Mr. Chapman?

MR. CHAPMAN. I would say that the black residents of Montgomery

County are generally concentrated in ghettos which have existed historically in the county. There are pockets of black neighborhoods within Montgomery County—for example, Tobeytown, Wheaton Lane, other areas where you will find a concentration of black families.

Now, these normally are not very large, but they are concentrated in small enclaves.

MR. POWELL. Mr. Chapman, in choosing sites for the location of public housing, do you attempt to disperse such housing throughout the county?

MR. CHAPMAN. The philosophy and intent of the Montgomery County Housing Authority has been, with the consent of the Montgomery County Council, to indeed disperse public housing throughout the county to achieve several things:

One is to guarantee that there will not be an intentional ghetto created by public housing.

Secondly, to guarantee that each community begins to bear its share of the need for limited-income housing.

And, thirdly, to guarantee that there aren't any architectural barriers.

MR. POWELL. In implementing this policy, do you encounter any opposition from public officials or from the public at large?

MR. CHAPMAN. No, I would say that the Montgomery County Council and the public officials in Montgomery County have most certainly given their wholehearted endorsement to, one, the policies of the Montgomery County Housing Authority and, two, have not only given their endorsement but have also put their pocketbook where their mouth is and given the housing authority a grant.

However, I would say that the housing authority has in many instances gotten a great deal of opposition from the people in whose community the public housing is going to be located.

Normally the people within that community will state that they too believe in dispersal of public housing—however, not in their community.

Secondly, it's my feeling that the people within the communities where sometimes we are going to build public housing activate their civic associations where perhaps they haven't existed before. I must say that we have probably activated more civic associations than any other agency in that county.

MR. POWELL. In what terms is this opposition expressed, where it is expressed?

MR. CHAPMAN. Oh, I think the terms are couched in various terms which I have some feeling about personally. I think that the first thing people talk about is the question of economic integration. I think the President raised that question last week. I don't agree with it. I don't think you can build public housing without some degree of economic integration. But that question is raised constantly.

Second question that is raised is the sociability and the cultural level of the people who are going to be moved in not being compatible with the cultural level of the families who are living there.

The third argument, getting back to economics again, is that the property values in the surrounding community will, of course, be diminished. This is not true.

I think underlying all three of these reasons is a fourth reason. I think that fourth reason is quite clear, blatant racism.

MR. POWELL. Mrs. Garrott, you stated earlier that the low- and moderate-income housing situation in the county is seriously inadequate. As a member of the county council, do you have any proposals to eliminate that situation?

MRS. GARROTT. Yes. Our council is very much concerned. We think it's very necessary to solve the problems of our low- and moderate-income families; to provide public housing where it is needed; and to provide moderate-income housing so that our firemen, our teachers, our young people can find homes.

Our council started off by adopting goals and objectives. One of our goals and objectives was balanced supply of housing. And I might read to you very briefly what we said our goal was.

We said in our goals and objectives:

"Balanced Supply. We are concerned about the crisis in housing, particularly at the moderate-income level. For a county such as ours to be viable, vigorous, and livable, we must provide a variety of housing styles and costs to meet the desires and needs of our people. We must make it possible for our citizens to be able to live and work in the same county, to reduce the time and distance for travel, and to raise their children in a proper environment.

"Equally important is the need for such housing to accommodate the variety of employees of the growing business and industrial base within the county."

And then in our same document on guides, goals, we said:

"Action. We will examine all possible methods to increase the housing supply, including modifications to zoning ordinances and related regulations, negotiations with developers, the possible establishment of nonprofit development corporations and procedures to reduce land and development costs.

"We will seek the advice of business and industry and concerned organizations and individuals in forwarding these concepts."

So in carrying out our goals and objectives we are doing a number of things. First of all, we are having drafted for us amendments to our zoning ordinance. These amendments to our zoning ordinance would require a minimum amount of low- and middle-income housing in all new subdivisions and in all new multifamily developments.

Our aim here is to avoid concentration. Our council believes very strongly that we must not create any ghettos, any new slums, but that instead we must disperse low- and moderate-income housing around the whole county, and we feel that the zoning ordinance is a very good tool to do this.

Another approach that our council is considering is to offer a bonus in additional floor area to the developer in exchange for providing additional floor area. This is sort of a carrot type thing, an incentive system.

And again we are working to have this kind of thing incorporated in our zoning ordinance.

We also have under consideration a proposal that in each residential subdivision a certain portion of the site be designed to accommodate smaller homes. We have had I think in our county a circumstance whereby so many of the homes that are built have two and a half baths, a family room, a rec room, and so on, and many of our people with lower- and moderate-incomes cannot afford such—what shall we call them?—“Cadillacs” of houses.

And so we would propose that in each residential subdivision a certain portion be designed to accommodate smaller homes, perhaps on smaller lots, and at slightly higher density than would be permitted in the rest of the subdivision.

Now, these would be implemented primarily through our zoning ordinance and through our subdivision regulations.

In addition, we believe that it is necessary to create a county housing corporation with the power to buy and sell and lease and manage moderately priced dwelling units. Because one of the problems, very frankly, is that you can have housing that is built and sold as moderate priced housing and then market forces could drive that price up so if there is resale the resale would take it out of the reach of moderate-income families.

So we think that this housing corporation might be a very necessary thing to have in the county.

We also have our staff, our county attorney's office, working on a mobile home zone. In our zoning ordinance today we have provision for trailer parks but really in very unsuitable places, in industrial zones and out in our 2-acre zones.

What we want to do is to have a mobile home zone so that we could have subdivisions with finished streets and sidewalks and all the amenities that you would find in any other subdivision, but instead of having expensive housing we would have mobile homes.

And a last thing—well, I shouldn't say “last” because there are many things we are working on. But another thing that we are working on is a planned unit development zone. Our county does not have this very fine technique, and we are trying to work up a planned unit development zone which would make it possible to have more low- and moderate-income housing.

And then we are considering buying land ourselves. We are working currently to buy land owned by the University of Maryland—their experimental farm. We have already made available monies for purchase of land for a college and school sites. And we expect and hope to buy the rest of that land for housing.

MR. POWELL. Mrs. Garrott, is it likely that the provisions that you have mentioned will be enacted by the county council?

MRS. GARROTT. It's my belief that they will be enacted by the county council. Our whole council is very cohesive on this. We believe very strongly that we must rise to the challenge presented in our county.

There is indeed a housing crisis shown by the Sieminski report which I have given you and by many other studies which we have made. And it is my belief that before this year is out most of these will be enacted into law.

MR. POWELL. In implementing these proposals, once enacted, do you anticipate encountering public opposition?

MRS. GARROTT. I don't believe so. I think that people in our county realize that there is a serious situation, that this does affect them and their children, their families, that it affects our fine police system and our firemen and our teachers. And I think that there is a lot of public support for doing something about the housing crisis.

I think that the fear is that there will be concentration, clumping together. But we are not going to clump together. We have devised these plans of ours with extreme care to avoid clumping, to avoid concentration, and I think so long as we insist upon dispersal and have devised the tools which make dispersal inevitable, then I don't think we are going to have the opposition.

MR. POWELL. Mr. Chapman, do you feel that the enactment of proposals such as those outlined by Mrs. Garrott would serve to improve the low- and moderate-income housing situation in the county?

MR. CHAPMAN. I think that the proposals as proposed by the Montgomery County Council and just voiced by Mrs. Garrott will probably be a model of low- and moderate-income housing for this country.

It is very hard for me to emphasize how important and how far-reaching and how innovative what Mrs. Garrott just talked about happens to be. If these proposals are indeed enacted—what we're talking about is the ability to provide limited-income housing and moderate-income housing without creating intentional ghettos.

What we're talking about is every developer that begins to build within Montgomery County within reason—for example, within a transit impact zone—would be building a rainbow of housing for people from various economic backgrounds.

If you do this, what you're talking about is, one, the doing away with the intentional ghetto, with the social pathology.

Secondly, you're talking then about economic integration of housing which is palatable to all the people who live in Montgomery County and most certainly the community.

And, thirdly, I think you're beginning to put the weight of responsibility for the development of low- and moderate-housing back on the shoulders of the independent builder and developer where it perhaps belongs.

But I think these are far-reaching proposals.

MR. POWELL. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Rankin, do you have any questions to ask?

COMMISSIONER RANKIN. Mrs. Garrott, does the council consider low-cost housing as a tax asset or a tax liability when you take into

consideration schools and health and the other activities you're engaged in?

MRS. GARROTT. We feel that it can be an asset to the county in that we do have many fine industries in Montgomery County particularly along our 70-S corridor. We have such firms as IBM, Fairchild-Hiller, Kodak. I can go on and on and name many, many fine firms.

I have met either with the presidents or top management people in those firms and they have said to me really with considerable bitterness—and I don't blame them perhaps for being bitter—that if they had known that the housing situation would be so bad for low- and moderate-income people that indeed they would not have brought their firms to Montgomery County.

Now, these firms have added a great deal to our county. We have many people with very top jobs who are in the county today because those firms are there. And these firms have increased our tax base a great deal.

But what, in effect, we have done is to take the cream and we have not provided the needs for their lower-echelon employees. And I don't think we are going to be able to continue to do this because many of these people said to me: "We're telling businesses of our type to stay out of the county."

So I'm not sure that it's possible always to balance out the cost for the schools and all the public services versus all the benefits from having a firm like IBM in our county.

But I do believe that our citizens do like firms like IBM in the county.

COMMISSIONER RANKIN. These remarks would apply to mobile home camps and areas, do you think, or not?

MRS. GARROTT. The mobile home subdivisions would, we visualize, provide a full spectrum of housing for the lower-echelon people who work in these industries which we consider are so splendid.

Now, we don't believe that all industry adds to our tax balance. We know that there are some industries that could come into Montgomery County that would run a fiscal deficit, and it may be really that some of the housing might run a fiscal deficit.

I personally would like to advance the idea with the Federal Government of having, shall we say, a payment very similar to the payment for impacted aid for education which would go to communities which have housing under a certain value.

I'm not prepared to say what that cutoff value should be, but perhaps it should go to communities all over the United States that have housing under \$18,000 and there would be a payment to assist with taxes.

COMMISSIONER RANKIN. Just one last question. I used to be on a city council myself. How do you keep undesirable business out?

MRS. GARROTT. I don't think that you just say: "I am going to keep undesirable business out."

COMMISSIONER RANKIN. You commented on the high type of your—

MRS. GARROTT. That's right. But we do have various requirements

in our industrial park zone which a lot of undesirable business perhaps could not meet, you know. We have various requirements for abatement of noise and all kinds of desirable things. And I think undesirable business perhaps could not meet some of those requirements.

COMMISSIONER RANKIN. You like this way of keeping them out? Is that right? By setting up high requirements they can't meet?

MRS. GARROTT. Well, I wouldn't say that. I would say that a lot of our businesses are in Montgomery County because we have had a chamber of commerce and we have had an economic development commission and a department of economic development which has tried to attract desirable industry. We have used really I would say the positive approach more than the negative approach.

COMMISSIONER RANKIN. That's all, Mr. Chairman.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. No questions.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. Mrs. Garrott, did you say or did I hear you say anything about whether any of the Federal institutions, the Federal Government as an employer, has moved into Montgomery County in any serious numbers in recent years?

MRS. GARROTT. Yes, we have a good many Federal installations. We have the Atomic Energy Commission, the Bureau of Standards, the National Institutes of Health, NIMH, Bethesda Naval Hospital, NOL, all kinds of Federal institutions in the county.

COMMISSIONER MITCHELL. Have they done anything to provide housing for low-income employees?

MRS. GARROTT. They really have not.

COMMISSIONER MITCHELL. Do you think there should be some obligation specifically on the Federal Government when it establishes an enterprise of that kind?

MRS. GARROTT. I do feel that perhaps, rather than that, there should be a Federal payment in lieu of taxes. This is the approach that I would like to see.

COMMISSIONER MITCHELL. That would leave it to the county or to—

MRS. GARROTT. That's right.

COMMISSIONER MITCHELL. —your commission to decide where and what kind of housing you wanted?

MRS. GARROTT. That's right.

COMMISSIONER MITCHELL. What percentage of the people in Montgomery County would you say work in the District of Columbia?

MRS. GARROTT. I have seen figures. There is a very fine book that came out about 2 years ago prepared for the Metropolitan Washington Council of Governments by Hammer, Green and Silar called "The Economy of Metropolitan Washington". I'm not sure that I remember the figures out of the book. It seems to me it was 30 percent, but I could be off. I see so many figures I don't always remember them.

COMMISSIONER MITCHELL. Assuming it was one out of three, I just went outside while the lunch break was on and counted the cars parked in the alley here, and although that may be the upper crust of the

Department of Agriculture, there were nine Maryland cars and seven Virginia cars and one District of Columbia car. So you really apparently have quite a few Montgomery County residents working here.

Now, in order to provide parking places for those cars and policemen and all sorts of other amenities for Montgomery County people in the District, should you be paying any special, making any special, contribution to the District of Columbia? Should the people who work here from Montgomery County consider that they should contribute something?

MRS. GARROTT. Our council did take a position on the so-called reciprocal income tax, this present council. The prior council on which I also served took a position a number of years ago on the commuter tax. We are opposed to the tax and I'll tell you our line of thinking.

We believe first of all that our residents who work in the District do make a contribution through sales tax and gasoline tax and many other forms of taxes.

Secondly, we do believe that as income tax payers we pay a substantial amount to the Federal Government and we believe that since Washington, D.C. is the Nation's Capital that all of the United States is responsible for its upkeep.

We also believe that our central cities have great problems today. Many of our taxpayers—all of our taxpayers really—are making a big contribution to the city of Baltimore, which is the big central city in our State. And we feel that it's impossible for a suburban county really to make tremendous contributions to central cities.

So we feel that the Federal Government has responsibilities towards the central cities to try to restore them to a good position. We are certainly sensitive to the problems of our central city, but we would like to help meet those problems as Federal taxpayers.

COMMISSIONER MITCHELL. I, of course, live in Denver, and I don't get as much use out of the District of Columbia as people who live in Montgomery County, so I would assume that that really is not totally relevant.

But the other thing I did want to ask you is what do you see the transportation situation here doing to the future relationships between the District of Columbia and your county?

MRS. GARROTT. We think that the building of Metro, which we very enthusiastically support and into which we are pouring a lot of our tax dollars— We feel that the building of Metro is going to be very helpful in bringing about better coordination between the central city and the suburbs.

COMMISSIONER MITCHELL. You would encourage real penetration of high-intensity transportation, mass transportation systems, into Montgomery County and back into the District?

MRS. GARROTT. That's right. We have adopted a plan which was adopted by the Washington Metropolitan Area Transit Authority which would bring transit out to Rockville which is, of course, our county seat, but we would like very much to see the extension of that onto our corridor cities, Gaithersburg and Germantown, but that will,

of course, take time because it's very expensive.

I should add, Mr. Mitchell, that the majority of the people in Montgomery County who live in Montgomery County work in Montgomery County.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Chapman, you indicated that you have about 700 units of low-income housing and that the population of Montgomery County is about 5 percent or less, which would be about 30,000 black persons. Is that right?

MR. CHAPMAN. That's correct.

COMMISSIONER FREEMAN. Now, will you tell us in what kind of housing? Is it rental or—

MR. CHAPMAN. Mrs. Freeman, we provide several kinds of housing for our limited-income families. First of all, we do have leased housing. We have approximately 190-some units of leased housing. A lot of the leased housing we have is somewhat old. A lot of it is marginal in the sense that they are the cheapest units that we could possibly pick up in Montgomery County, because that's all the Federal Government allows us.

Montgomery County is a wealthy county. To find a three-bedroom unit that leases for \$165 is fairly impossible.

Secondly, the housing authority has acquired some high-rise units through direct acquisition. These are houses for our elderly.

And then we have a great deal of housing, several 50-unit projects, plus some scattered sites, that the housing authority has contracted to be built for it and which we now occupy, which is Turnkey 3, which is a homeownership program.

But providing limited-income housing in Montgomery County right now is a fairly hard job.

COMMISSIONER FREEMAN. On the basis of these figures you would have a gap between the supply and the need of about 10,000 homes?

MR. CHAPMAN. Ma'am, we have just gotten one drop in the bucket so far. We haven't begun to meet the real need.

COMMISSIONER FREEMAN. Mrs. Garrott indicated that IBM and Fairchild's officials had indicated that if they had known of this deficiency that there might have been some question about whether they would have relocated there and then mentioned also that the chamber of commerce and economic development commission were sort of responsible for going out and recruiting business.

And I suppose that I would be right in assuming that when the chamber of commerce and the economic development commission go out that they hold out to these businesses certain things that are attractive or certain reasons why they should come there. Is that correct?

MRS. GARROTT. Yes, I think it is.

COMMISSIONER FREEMAN. What I would like to know is have you indicated to the chamber of commerce and the economic development commission the inclusion in their package of the requirement that—of

the fact that they will look to their own community to provide the housing before they will go out and ask for industry or the Federal agencies to relocate there?

MRS. GARROTT. I would say that the chamber of commerce has played a very fine role in educating everybody on the need for more low- and moderate-income housing. I was first elected to the council in November 1966. I had not been in office very long when the president of the Montgomery County Chamber of Commerce asked me to meet with him and other people from the chamber, and they stated that they wanted to talk to me about the need for more moderate-priced housing in the county.

It was out of these conversations with the Montgomery County Chamber of Commerce that there grew a resolution which I cosponsored setting up a middle-income housing commission which did accomplish some things.

For example, it provided for a tertiary road system, and it worked to get a choice program going, and a number of things of that sort that were helpful that did grow out of that. But it was the chamber really that originally pointed out to me the needs, and I think they have played a very fine role.

COMMISSIONER FREEMAN. What I would like to know is how many houses for moderate- or low-income families have been constructed as a result of this policy that you have described.

MR. CHAPMAN. Mrs. Freeman, my concern is that— The Montgomery County Council has given the Montgomery County Housing Authority carte blanche to build as many units as we possibly can within the county. Right now we have a 1,500 unit—I'm sorry. We have just entered our third 600 unit contract with the county. My concern is that the housing authority has been unable to do this for several reasons.

First of all, because of the high cost of land in the county and the need for rezoning and that sort of thing which the county council is now working on.

But even beyond that there is another issue, and that is the issue of the Department of Housing and Urban Development that virtually makes it impossible to begin to make creative uses of the programs that they have.

We're still operating programs as if they were existing in 1939. I have to operate a housing authority in one of the wealthiest counties in the country as if it was existing in the inner-city with the inner-city land cost. We, of course, have social service problems, but this hasn't been funded even though it was recommended in the 1968 Housing Act.

I think we need to look closer to home, and that is the bureaucracy in Washington, to really begin to discover why more houses in some instances haven't been built in Montgomery County.

COMMISSIONER FREEMAN. Are you saying then that the local housing authority has the programs under reservation, businesses are willing to have it, that the county council has approved it, and the Federal agency is the stalemate?

MR. CHAPMAN. Well, for example, I right now have a reservation in — My last reservation of 500 units to build limited-income housing in Montgomery County has been used up. We have had a reservation in for 600 additional units which we need desperately now. That reservation has been in at HUD for at least the last 6 to 9 months.

We have had other proposals that we have had into the Department of Housing and Urban Development that just take just as long to respond to.

And by the time we get a response, in many instances the land is gone, the developer has made other deals, what have you.

In addition, we also have been trying to marry public housing to 235 and 236 programs. We have discovered that many people in FHA don't even know what a 235 and 236 program is, much less Turnkey 3.

MRS. GARROTT. I could add to that. The prior council when it came in office was very determined to rehouse people in a little pocket of poverty in our county called Tobeytown. We were told by the housing authority— We really staffed the housing authority quite well in the department of community development, and we said: "We want the job done and we are willing to pay the money to have the job done." And we were told that we would have the people in Tobeytown, 20-some families, rehoused by Christmas 1967. And then we were told that they would be in by Easter 1968.

And the building of those homes still has not started. And I have called in the head of our department of community development repeatedly and I have said: "What's the trouble? You know, we have given you the money. We have said push it. We're very concerned."

And there has been some trouble in the last year or so over the builder. But before that, according to the head of our department of community development, so much of the hangup lay in what he called bureaucratic red tape involving the Federal Government.

COMMISSIONER FREEMAN. What do you think should be done as far as the Federal Government is concerned—with HUD?

MR. CHAPMAN. I think Mr. Romney right now is undergoing a reorganization where we will have area offices. I have been told that those area offices will be able to respond directly to applications and directly to requests from local housing authorities and from local governmental jurisdictions.

If that is true—and I'm still waiting to find out because I have yet to see a bureaucracy that actually, you know, makes the bureaucracy work better—if that is true, it will go a long way toward making my job most certainly easier.

But I think that that might begin to get at the issues. You have to have someone at HUD that can make a general response to a request without running it through regional offices, through central offices, back to regional offices, and then in some instances having the Secretary himself respond.

COMMISSIONER FREEMAN. Thank you.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I have no questions.

VICE CHAIRMAN HORN. Mr. Chapman, let me just get a little elaboration on that last point because I think it's significant.

In hearings in St. Louis and Baltimore this Commission has gone into the processes of HUD and how approvals are granted or not granted for various types of housing. I think what you have just said is certainly a major point to be underscored. In other words, you would claim that if HUD could decentralize some of these decisions down where the action is so that you could get your hands on the guy that you needed the approval from, perhaps this process would be speeded along and this country would get the houses it needs to meet its 1949, if you will, housing commitment?

MR. CHAPMAN. I think you're absolutely right. The kinds of people that I deal with at HUD—I'm not talking about the Assistant Regional Administrator or the Regional Administrator—I'm talking about the people that are my field reps that come out from HUD to take a look at what is going on—these are basically interns or a year out of school who begin to interpret to those of us who have been in this business for quite a while what we are about.

We have to be careful that we don't step on their toes or else you might wind up with nothing. And the bureaucracy itself—If there is anything within a piece of paper that begins to bother someone, that's new, creative, innovative, maybe a little "out there" somewhere and it might perhaps do a little better job, it's impossible to get anybody to sign off on it. No one will assume the responsibility for it.

And even when you're doing something that is within the legislative rules and regulations as well as the administrative rules and regulations, it still takes a long time to get a response, and time is money when you're in this business.

VICE CHAIRMAN HORN. Let's just take specifically those 600 units you mentioned that have sat around now waiting for a decision one way or the other for between 6 and 9 months. What type of housing was that again?

MR. CHAPMAN. What we are talking about now is acquisition under Turnkey 1 or Turnkey 2.

VICE CHAIRMAN HORN. Is it land acquisition?

MR. CHAPMAN. No, this is to make a deal with the developer. The housing authority would advertise and we'd say something to the effect: "The Housing Authority of Montgomery County is interested in purchasing 50 units of townhouses in a given area or another area. Anyone that would be interested in presenting us with a proposal to do that, if it's within the cost limits defined by HUD, we will most certainly be glad to entertain such a proposal." But we can't do that until we have a reservation. That reservation says that the Federal Government will reserve for us X amount of money to be able to sign a contract eventually with that developer or with that builder.

VICE CHAIRMAN HORN. I see. So this is a matter of actual cash outlay by HUD if they made that commitment to you?

MR. CHAPMAN. That is correct.

VICE CHAIRMAN HORN. Do you have any knowledge whether or not

this is due to a lack of appropriations for this program by Congress?

MR. CHAPMAN. I have been trying to discover that. I called the regional office. The regional office stated that it was under consideration, but, you know, 6 months has gone by. I finally called central office in HUD, and the central office in HUD explained that perhaps there might not be any money around.

I go back to the regional office and I tell them: "Hey, fellows, I heard from your guys down in Washington there might not be any money around. Have you heard that?"

They weren't sure. You go around and around. You really never know.

I know that there is some money in the regional offices. I know there is probably a fight going on by LPA's and LHA's to pick up that money.

All I want to be able to do is to be able to plan for the next 6 months. I would like to know where I stand. I would like to know whether we're going to have any units or not.

VICE CHAIRMAN HORN. Well, I think Counsel might use this project as an example and ask Mr. Romney when he appears before us just what the status of this and similar projects is and the actual time lag between filing of a request and decisionmaking at one level or the other.

Let me ask you, Mrs. Garrott: I noticed you said that as a member of the county council when the question of a commuter tax came up relating to your residents who go into the central city and back, presumably they pay sales taxes, although it would be hard to find how many they pay as they flee in and out in the morning and the afternoon. And they certainly do get liquor at cheaper prices in the District of Columbia than they do in Montgomery County.

I'm just curious. If you were a member of the League of Voters and not a member of the county council in Montgomery County, would you take the same position?

MRS. GARROTT. I think so. Because I really believe strongly that all our central cities should be assisted from the Federal level. I think that it is impossible to expect suburban areas to bail out the central cities. I think massive infusions of money are needed in all our central cities.

VICE CHAIRMAN HORN. Yes, but haven't you also said, Mrs. Garrott, that not only should the Federal Government aid the central cities, but you are advocating here today an in lieu tax proposal to aid one of the richest counties in the United States, which is Montgomery County?

May I ask why the residents of the United States through the Federal tax system should aid Montgomery County in providing low- and moderate-income housing to attract industry which pays the tax bills in Montgomery County? You know, as a Californian, I am curious why I have to pay for your low- and moderate-income housing.

MRS. GARROTT. Let's separate two things. I have suggested first of all that there be a Federal payment in lieu of taxes everywhere in the United States where there are Federal installations. And this would be worked out in such a formula that it would be very helpful to Washing-

ton. It would be helpful to many other areas. Because as a local public official I do believe that when land is taken off the tax rolls by the Federal Government there should be a payment in place of that.

The second proposal that I have made is that everywhere in the United States wherever there are housing units that sell for X number of dollars and less, that there be a Federal payment towards making up the fiscal deficit. And this would help every central city including D.C. and including Maryland's central city, Baltimore, and all the other cities all over the United States and many of the rural villages in this county which have a lot of housing where people are sunk in poverty.

So I believe this would not only assist Montgomery but it would assist a great many people, and it's just a way that I feel that housing where there is a fiscal deficit becomes more palatable.

VICE CHAIRMAN HORN. Does the county government have a group that actively goes out and solicits manufacturers and firms to come to Montgomery County or is that left to the Montgomery County Chamber of Commerce?

MRS. GARROTT. We did have a department made up of one person who went out and actively solicited.

VICE CHAIRMAN HORN. Do you still have that?

MRS. GARROTT. We still have that department but the person who was in charge of it is no longer there and we are recruiting another person, but we're going to increase the department. There will be two people in it. However, a proposal was made by our economic development commission and by our chambers of commerce that a new type of organization be set up partially funded by the county, partially funded by the chambers of commerce, which together would solicit and that our county department of economic development really do sort of statistical and research work.

VICE CHAIRMAN HORN. Might you suggest when you do staff that department and also to the chamber of commerce with whom you have contact that maybe they ought to tell businessmen that there are really hardly any houses for moderate- and low-income people in Montgomery County, in the interest of, say, truth in advertising or something?

Let me ask you one more question. I believe Silver Spring is still unincorporated, isn't it?

MRS. GARROTT. Yes, it is.

VICE CHAIRMAN HORN. This is the largest unincorporated city in the United States I believe.

MRS. GARROTT. Most of our places in Montgomery County are not incorporated. Bethesda is not incorporated either, or Wheaton, although we do have incorporated communities such as Rockville, Takoma Park, Gaithersburg.

VICE CHAIRMAN HORN. So this means essentially the county would adopt the building codes, does it?

MRS. GARROTT. That's right.

VICE CHAIRMAN HORN. May I ask do you feel—and I'd like also Mr. Chapman's response—if there's any problem in terms of the construction of moderate- and low-income houses based on the rigidity perhaps

of the building code? You mentioned the problems of dealing in the '30's. Some have argued, for example, that because of labor unions and other craft hangovers that there is very little opportunity for modular type housing because of some restrictive building codes.

MRS. GARROTT. There is no problem whatever in our county. I took this matter up with our county attorney more than a year ago. At that time there was the need for changing our electrical code. And we did so through passing of a bill last year.

Just Saturday I had the pleasure of going to a site near Etchison in our county where we are having modular homes built. This is a cooperative enterprise. The housing authority is playing a role in this. These modular houses are selling for \$23,500. They will be available for homeownership. And they are, I think, proof that we do not have any problems with our building code. But our county attorney has told us that we do not have this rigidity in our building code.

VICE CHAIRMAN HORN. Go ahead, Mr. Chapman.

MR. CHAPMAN. I was just going to say the idea that— The county, by the way, does have a good building code now. But the idea that through the construction of modular or prefab houses we would reduce building costs in this day and age really isn't true until we can aggregate a market.

I, when I first came on board in Montgomery County, was extremely interested in new building techniques. As a matter of fact, the houses that Mrs. Garrott alludes to, we're the second people in the country to build them. It's that new a technique.

But unless we can really put together a market for them, it doesn't reduce our cost. It's just as cheap to build a stick-built house unless you can really put together an aggregated market.

VICE CHAIRMAN HORN. Let's take that last modular development. What percent of the total housing price will land cost be in that development? Do you have a rough idea?

MR. CHAPMAN. The modular itself was \$6,000, \$500 delivered, so we're talking about \$6,500 for the modular, about, I would say, \$3,000, \$4,000 for the site improvements, and the rest would be land costs. I would say fully about a third of the cost is in the land.

VICE CHAIRMAN HORN. Well, you said those were selling for what again?

MR. CHAPMAN. \$22,000, \$23,000.

VICE CHAIRMAN HORN. So that's really half would be land cost?

MR. CHAPMAN. I could be off a little on my figures. I would say it's closer to one-third.

VICE CHAIRMAN HORN. Closer to a third? Very well. Are there any further questions? Mr. Powell? Mr. Glickstein?

(No response.)

Fine. We thank you very much for joining with us today. If you wouldn't mind remaining through the next witnesses, since we had to reverse the panels there might be a need should something come up to recall you. But we do appreciate your taking the time to come here and we thank you for the evidence that you have given us.

Will Mrs. Thomas and Mrs. Lancaster please come forward?
 (Whereupon, Mrs. Beulah Louise Thomas and Mrs. Margaret Lancaster were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MRS. MARGARET LANCASTER, TAKOMA PARK,
 MARYLAND, AND MRS. BEULAH LOUISE THOMAS,
 SILVER SPRING, MARYLAND**

VICE CHAIRMAN HORN. Please be seated. Mr. Powell?

MR. POWELL. Beginning with Mrs. Thomas, who is closest to me, would you each please state your name and address?

MRS. THOMAS. Beulah Louise Thomas, 543 University Boulevard, East, Silver Spring.

MR. POWELL. Mrs. Lancaster?

MRS. LANCASTER. Margaret Lancaster, 7402 Hancock Avenue, Takoma Park, Maryland.

MR. POWELL. Mrs. Thomas, with whom do you live?

MRS. THOMAS. My husband and four children.

MR. POWELL. And are you employed?

MRS. THOMAS. No.

MR. POWELL. Is your husband employed?

MRS. THOMAS. Yes.

MR. POWELL. What does he do and where is he employed?

MRS. THOMAS. He's a custodian at Eastern Junior High in Silver Spring.

MR. POWELL. How much does he earn?

MRS. THOMAS. How much does he earn? Well, his bring-home pay is \$154.

MR. POWELL. \$154?

MRS. THOMAS. Every 2 weeks.

MR. POWELL. Every 2 weeks? In addition to your husband's income, does your family receive any other financial assistance?

MRS. THOMAS. No.

MR. POWELL. Mrs. Thomas, how long have you and your husband lived in Montgomery County?

MRS. THOMAS. All of our lives.

MR. POWELL. I beg your pardon?

MRS. THOMAS. All of our lives.

MR. POWELL. All of your lives? Mrs. Thomas, are you living in public housing now?

MRS. THOMAS. Yes.

MR. POWELL. How much do you pay for that housing?

MRS. THOMAS. \$69 a month.

MR. POWELL. Is that a single family home?

MRS. THOMAS. Yes.

MR. POWELL. In addition to the \$69 a month you pay for rent, do you also pay utilities?

MRS. THOMAS. Yes.

MR. POWELL. And how much does that come to?

MRS. THOMAS. Well, I can give you an estimate.

MR. POWELL. All right.

MRS. THOMAS. About 120-some dollars a month.

MR. POWELL. About \$122 a month?

MRS. THOMAS. In the winter.

MR. POWELL. Does that include the rent or is that in addition to rent?

MRS. THOMAS. Addition. No, that's with the rent. I'm sorry.

MR. POWELL. With the rent? All right. Mrs. Thomas, is there anything wrong with your house from the point of view of health and sanitary conditions?

MRS. THOMAS. Yes.

MR. POWELL. Would you describe that for us, please?

MRS. THOMAS. Well, we have rats and roaches and termites.

MR. POWELL. And how long have you lived in your present house?

MRS. THOMAS. Fourteen months.

MR. POWELL. Have these conditions been reported to the housing authority?

MRS. THOMAS. Yes.

MR. POWELL. And what has been their response?

MRS. THOMAS. Well, they did send the exterminator over about 4 months ago, and that's it.

MR. POWELL. Did they take care of these conditions for you? When the exterminator came did the conditions improve?

MRS. THOMAS. No.

MR. POWELL. When improvements are made in your home, Mrs. Thomas, do you make them or does the landlord do it for you?

MRS. THOMAS. The housing authority does it, some of it.

MR. POWELL. Do you have to make some improvements yourself?

MRS. THOMAS. Yes, we did.

MR. POWELL. And when you make those improvements, you have to pay for them?

MRS. THOMAS. Yes, we did.

MR. POWELL. Did you live in public housing before your present house, Mrs. Thomas?

MRS. THOMAS. Yes.

MR. POWELL. Was the condition of that housing also substandard?

MRS. THOMAS. Similar to it.

MR. POWELL. Mrs. Thomas, did the housing authority help you find your present house?

MRS. THOMAS. Yes.

MR. POWELL. Before you moved in, did they inspect that house?

MRS. THOMAS. Well, it was supposed to be inspected.

MR. POWELL. And was it your understanding that it would be in good condition when you moved in?

MRS. THOMAS. Yes.

MR. POWELL. Was it in good condition when you moved in?

MRS. THOMAS. No.

MR. POWELL. Would you describe the condition it was in when you

moved in?

MRS. THOMAS. Well, when we moved in, before we could move in, my husband had to disinfect the place and wash it and it wasn't painted. It was whitewashed but it wasn't painted. And it wasn't clean.

MR. POWELL. Would you and your husband like to stay in Montgomery County?

MRS. THOMAS. Yes.

MR. POWELL. Have you attempted to find better housing in Montgomery County?

MRS. THOMAS. No, because we want to stay here.

MR. POWELL. Well, have you attempted—

MRS. THOMAS. Oh, we looked around for houses on our own, yes.

MR. POWELL. In Montgomery County?

MRS. THOMAS. Yes.

MR. POWELL. Have you been able to find such housing?

MRS. THOMAS. No.

MR. POWELL. Do you want to stay in Montgomery County?

MRS. THOMAS. Yes.

MR. POWELL. Why?

Mrs. Thomas. Because we've been here all of our lives, just want to stay here I guess.

MR. POWELL. I see. Thank you. Mrs. Lancaster, with whom do you live?

MRS. LANCASTER. My husband, nine children, and my grandson.

MR. POWELL. Are you employed?

MRS. LANCASTER. No, I'm not.

MR. POWELL. Is your husband employed?

MRS. LANCASTER. Yes.

MR. POWELL. Where is he employed and what does he do?

MRS. LANCASTER. He works for Lester Paresky Management, Inc. He's a maintenance mechanic.

MR. POWELL. How much does he earn?

MRS. LANCASTER. He brings home \$113 a week.

MR. POWELL. In addition to your husband's wages, do you receive any other financial assistance?

MRS. LANCASTER. We receive AFDC from social service department in Rockville.

MR. POWELL. How long have you and your husband lived in Montgomery County, Mrs. Lancaster?

MRS. LANCASTER. All of our lives.

MR. POWELL. You were raised in the northern part of the county, were you not?

MRS. LANCASTER. True.

MR. POWELL. Did there come a time when you moved to the southern part of the county?

MRS. LANCASTER. Yes. We were living in my grandfather's house. Because of the age of the house it was impossible for us to fix it up without completely doing a remodeling job which we couldn't afford, so we had to find someplace else to go.

MR. POWELL. And when did you move to the southern part of the county?

MRS. LANCASTER. In 1968.

MR. POWELL. In 1968 when you moved to this part of the county, to the southern part of the county, did you apply for public housing at that time?

MRS. LANCASTER. Not at that particular time because I was active in the civic association in Sandy Spring, and through a League of Women Voters member they gave us like, you know, fair housing here—names of fair housing people and people to get in contact with for those that didn't have adequate housing. And the name that they gave us was the Emergency Homes, and I contacted them in January of 1967.

MR. POWELL. Since being in the southern part of the county, have you ever had occasion to apply for public housing?

MRS. LANCASTER. Yes, I did.

MR. POWELL. And what was your experience? Were you able to get public housing after applying?

MRS. LANCASTER. After a year and about 6 months they found us a house which my husband was not satisfied with and we didn't take it.

MR. POWELL. What was the housing that you actually found in 1967 or 1968 when you first came to the county? What was that like?

MRS. LANCASTER. It was poor. It was not a tight house. In the winter utilities went up to \$78, \$80 a month just for heat. And the doors in the basement were off the garage. The door leading into the basement had to be chinked up in the wintertime to keep out the cold. And we had windows that were missing and had to call to be replaced.

MR. POWELL. How long did you live there?

MRS. LANCASTER. We lived there for 4 years.

MR. POWELL. When you became dissatisfied with that housing, what did you do to find a better house?

MRS. LANCASTER. We looked. We looked all over in Montgomery County to try and find a house that would house our children and ourselves which was impossible on the rent that we could afford to pay.

MR. POWELL. How did you eventually find the house you are in now?

MRS. LANCASTER. Through my social worker, and Mrs. Elizabeth Scull. She found a house, bought it, and is now renting it to us.

MR. POWELL. How long have you been living there?

MRS. LANCASTER. We have been living there now for a year and 6 months.

MR. POWELL. A year and 6 months?

MRS. LANCASTER. Yes.

MR. POWELL. Do you pay rent on your present home?

MRS. LANCASTER. Yes, we do.

MR. POWELL. And you are not living presently in public housing, are you?

MRS. LANCASTER. No.

MR. POWELL. How much do you pay per month?

MRS. LANCASTER. \$125.

MR. POWELL. Mrs. Lancaster, you are chairman of the Montgomery County Welfare Rights Organization, are you not?

MRS. LANCASTER. Yes, I am.

MR. POWELL. Through this position and your other personal experiences, have you become familiar with the housing needs of low-income people in the county?

MRS. LANCASTER. Yes.

MR. POWELL. Would you please describe the problems that poor people have in finding appropriate low-income housing in the county?

MRS. LANCASTER. Well, first of all, when you move or want to move into a better house, you automatically feel that you would like to live somewhere in the suburbs if you have children, or in the country if you have children—that is, if you have adequate transportation. And if you look for a place, say, out in the suburbs, in Wheaton or some place like this, they don't want you because either you're black, you're poor, and they feel you're going to run the standards of the neighborhood down, that when you move in you are not going to keep your property as well kept as theirs.

They feel that most of these houses have a type of luxury attached to them and they feel that a poor person is not supposed to have a luxury, which is just the simple things in life that everybody should have. They feel that a garbage disposal or a dishwasher if it's in a house is too much for a poor person to have.

If they can go and wash their dishes in a dishwasher, put their garbage in a garbage disposal, why can't we have the same things?

MR. POWELL. Thank you. I have no further questions, Mr. Chairman.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mrs. Lancaster, you were talking about the problems of poor people in Montgomery County in finding housing. Could you tell us whether the poor black people have it harder than the poor white people or not?

MRS. LANCASTER. No, I wouldn't say they have it any harder. I think when it really comes down to it and you want to move into an exclusive white neighborhood, they don't want a poor white person because they feel that this will show exactly what they are doing to the poor people, and if they have some of their own, they are ready to turn them down. I think when it comes to it they would accept a black before they accept a white.

COMMISSIONER FREEMAN. You are paying \$125 a month rent?

MRS. LANCASTER. Yes.

COMMISSIONER FREEMAN. What are you getting for this?

MRS. LANCASTER. Pardon?

COMMISSIONER FREEMAN. What are you getting? How large— Is it a house?

MRS. LANCASTER. We have a 12-room house.

COMMISSIONER FREEMAN. Twelve-room house. How many houses are available for rent in the neighborhood at that rental?

MRS. LANCASTER. Where I live?

COMMISSIONER FREEMAN. Yes.

MRS. LANCASTER. None. You can't find a house for \$125 a month with four or five bedrooms. It's impossible.

COMMISSIONER FREEMAN. You have had occasion to be looking for apartments and houses. Mrs. Thomas, what has your experience been in terms of trying to find houses? Have you found that there has been a larger number of apartments or houses available to black persons than white persons in Montgomery County at the monthly rental that you are paying?

MRS. THOMAS. At the rent I'm paying now?

COMMISSIONER FREEMAN. Yes.

MRS. THOMAS. No, not too many.

COMMISSIONER FREEMAN. So that in this area there are just no rental houses for poor families, be they black or white?

MRS. THOMAS. Not at the rent you can pay.

COMMISSIONER FREEMAN. I believe your income, annual income, is about \$4,000, and you, Mrs. Lancaster, the income is about \$5,800.

MRS. LANCASTER. That's right.

COMMISSIONER FREEMAN. Have you tried to find out from any of the Federal agencies whether there would be any homes available for sale for you to purchase?

MRS. LANCASTER. No, because after we got this house we rented with option to buy.

COMMISSIONER FREEMAN. You are already under the lease-purchase program?

MRS. LANCASTER. There was no need to ask or go to Federal housing. When we were looking there were not any four-and five-bedroom houses which would be under the housing code of Montgomery County for a family of my size. When we were looking they did not have them.

COMMISSIONER FREEMAN. Would you say that your housing is better or worse than some of the other poor people who live in Montgomery County?

MRS. LANCASTER. I would say it's better than some people that live in the county—some of the people that I know that live in Montgomery County.

COMMISSIONER FREEMAN. The others are worse off than you?

MRS. LANCASTER. I think so. Some of them. Not all of them.

COMMISSIONER FREEMAN. Thank you.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. No questions.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. No questions.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. No questions.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. No questions.

VICE CHAIRMAN HORN. Let me ask you, Mrs. Thomas, Mrs. Lancaster: Sometimes we have found in going around the country that in various neighborhoods where there is lower-income housing there seems to

be a failure of either county or city services such as garbage collection, certain other things that make life fairly palatable. Do you find that there is any difficulty in terms of the municipal or county services that you are receiving in your respective housing?

MRS. LANCASTER. No, I haven't since I have been in Takoma Park — I haven't found any problem with this except when we first moved onto Hancock Avenue we'd have our trash from one week to the next. But when I started complaining about it, when they found that I wasn't going to let it go, then they started and they are picking up my trash as they should.

VICE CHAIRMAN HORN. Mrs. Thomas?

MRS. THOMAS. When we first moved in they wouldn't pick it up, and we kept complaining, and now they do it regular.

VICE CHAIRMAN HORN. So you do have at least certain garbage collection, sanitation services that are working?

MRS. THOMAS. Right.

VICE CHAIRMAN HORN. How would you describe the general appearance of the neighborhood in which your houses, one private and one public I take it, are located? Generally in terms of the streets, are they littered or what? What is the general appearance of the neighborhood?

MRS. LANCASTER. The neighborhood where I live is very clean and I guess mainly because they have mostly apartment buildings there and I am pretty much surrounded by the apartment buildings. But it's a clean neighborhood. The streets are clean.

VICE CHAIRMAN HORN. Mrs. Thomas?

MRS. THOMAS. Well, we live right on the side of the boulevard which is near the road, and there's nothing there but houses all the way up. This is a pretty well kept neighborhood—from one end up, that is.

VICE CHAIRMAN HORN. So in terms of street cleaning by the municipality or the county, that seems to be maintained and also the neighborhood generally has kept up its own houses in this area?

MRS. THOMAS. Yes.

VICE CHAIRMAN HORN. Thank you very much. Any further questions by anybody?

(No response.)

Well, we appreciate so much your coming down here today. Thank you again.

Do the previous witnesses have any comments they would like to make at this time having heard from the two residents of Montgomery County? If so, we'd be glad to hear any further statements or any questions of the previous witnesses.

They could submit it for the record if they'd like after reviewing it.

We will now have the panel on the Commission hearings in St. Louis, Missouri and Baltimore, Maryland. Mr. George C. Bradley, Assistant General Counsel of the United States Commission on Civil Rights, and Peter W. Gross, Assistant General Counsel of the Commission, will present two brief papers.

(Whereupon, Mr. George C. Bradley and Mr. Peter W. Gross were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. GEORGE C. BRADLEY, ASSISTANT GENERAL
COUNSEL, AND MR. PETER W. GROSS, ASSISTANT GENERAL
COUNSEL, UNITED STATES COMMISSION ON CIVIL RIGHTS,
WASHINGTON, D. C.

VICE CHAIRMAN HORN. Please be seated. Mr. Hunter will proceed to question you.

MR. HUNTER. Thank you, Mr. Chairman. Before we begin, there are a couple of items I would like to introduce into the record.

Mr. Scott of the Washington Suburban Institute who testified this morning left with me a statement which he would like submitted. I'd like to introduce that into the record.

VICE CHAIRMAN HORN. Without objection, that will be inserted in the record at the point at which Mr. Scott's discussion took place.

MR. HUNTER. Thank you.

And if the map of Montgomery County, which we have been watching, could be introduced into the record—

VICE CHAIRMAN HORN. Yes. Why don't we as a general policy have the exhibits that will be introduced put at the appropriate place in the record.

MR. HUNTER. Yes, we will do that.

And we also now have a map of the Baltimore Metropolitan Area and of the St. Louis Metropolitan Area which I'd like to introduce.

VICE CHAIRMAN HORN. Both exhibits will be inserted at this point. (Whereupon, the documents referred to were marked Exhibits No. 11-14 and received in evidence.)

MR. HUNTER. Thank you.

Would you please state your name and your position for the record?

MR. BRADLEY. George Bradley, Assistant General Counsel.

MR. GROSS. I'm Peter Gross, also Assistant General Counsel.

MR. HUNTER. That's with the U. S. Commission on Civil Rights?

MR. BRADLEY. Yes.

MR. GROSS. Yes.

MR. HUNTER. Mr. Bradley, did you participate in the preparation of the Commission's hearing in St. Louis County and did you attend that hearing which was held January 14 to 17, 1970?

MR. BRADLEY. Yes, I did.

MR. HUNTER. Could you summarize for us what took place at that hearing, what the Commission saw and heard?

MR. BRADLEY. Yes. The St. Louis Metropolitan Area is rapidly becoming two communities, one poor and largely black, the other affluent and largely white. The racial division of the St. Louis Metropolitan Area was documented by the Commission in January of 1970.

The city of St. Louis over the last 20 years lost over 180,000 inhabitants, most of whom were white. St. Louis County in the same 20 years had an increase of over 700,000 persons, mostly white. Although in the last several years there has been some increase in the number of black persons moving into St. Louis County, this movement does not indicate that the black population is being dispersed. In fact, the reverse is true.

The black population has been moving into an area adjacent to the city of St. Louis, particularly in a corridor northwest of the city, indicating that the black population was merely spilling over the city line into the county.

A movement of even greater concern to the Commission related to jobs moving from the central city to suburban areas. While the St. Louis Metropolitan Area has experienced an overall employment growth in recent years, the growth of employment opportunities has been confined largely to St. Louis County. Between 1951 and 1967, the number of jobs in St. Louis County increased five times, while the number of jobs in the city declined by over 20 percent.

In this period of time there was an increase of more than 170,000 new jobs in the county, while in the city there was a decline of over 80,000 jobs.

The movement of white people and jobs from the city of St. Louis to parts of St. Louis County, largely inaccessible to minority persons, was, the Commission found, not accidental. The presence of the Federal Government was everywhere. In some cases the Federal Government failed to take corrective action.

For example, the Air Force awarded a large contract to the McDonnell-Douglas Corporation, the largest employer in the St. Louis area, employing over 33,000 persons. The contract to build airplanes could eventually total over \$7 billion. Notwithstanding such a huge contract, no preaward compliance review was conducted by the Federal Government to determine whether the county had an affirmative action plan in compliance with Executive Order 11246 which requires equal opportunity by Federal contractors.

In fact, the affirmative action plan did not comply with the Executive order.

In the case of McDonnell-Douglas, the fault of the Federal Government was one of omission, in that Federal regulations promulgated by OFCC to carry out Executive Order 11246 had not been carried out.

The Commission also heard testimony indicating that some Federal agencies were guilty of more than omissions but were actually conducting their programs in a way which contributed to the concentration of poor black persons in certain areas of Metropolitan St. Louis.

For example, the urban renewal program enabled the city of Olivette, Missouri to displace most of its black citizens. An area that once had well over 100 black persons had less than 10 black persons at the time of the Commission hearings.

Most of the residents of this area were forced to move back into predominantly black areas of the county or even into the inner-city.

The purchase of this land and the removal of its black residents was paid for with Federal funds.

Except for 150 units of public housing in the all-black city of Kinloch, no public housing was located in St. Louis County. Kinloch was the only municipality in St. Louis County to even have a public housing authority.

While the unincorporated section of St. Louis County does operate a

public housing authority, in January 1970, after 14 years of existence, it had yet to build its first unit of housing.

Thus, HUD has permitted the various jurisdictions in St. Louis County to benefit from its programs on a selective basis, rejecting programs for the poor such as public housing for low-income families, but utilizing programs benefiting middle-and upper-income families such as the system of mortgage insurance for home purchase, property improvement loans, and urban renewal.

Since 79 percent of real estate transactions are handled by real estate agents, their role in maintaining a separate housing market for black families is great. The Commission heard testimony of allegedly widespread discriminatory practices by real estate brokers in the St. Louis Metropolitan Area.

A fair housing group visited 15 different real estate companies and received the same general treatment at all of them. If the visitors were white, they were directed to all-white areas in the county and on some occasions were even told derogatory things about certain integrated or "changing" areas.

If the visitors were black and asked for the same priced housing as the white person, they were directed only to certain integrated, "changing", or all-black neighborhoods.

One of the real estate dealers allegedly engaging in such practices testified that over 90 percent of his sales were financed by FHA and VA.

In summary, the Commission found that in the St. Louis Metropolitan Area, employment opportunities are moving from the city to the suburbs, but the minority community remains entrapped in an expanding ghetto.

While there has been some significant black movement into the suburbs, this has not been because of racial integration but because the ghetto has reached the county line and moved across it.

The Commission heard witness after witness describe not what the Federal Government is doing to alleviate the situation but how the Federal Government directly contributes to the problem.

MR. HUNTER. Thank you, Mr. Bradley.

Mr. Gross, did you participate in the preparation for the Commission's hearing in Baltimore County and did you attend that hearing which was held August 17-19, 1970?

MR. GROSS. I did.

MR. HUNTER. Could you summarize that hearing for us, please?

MR. GROSS. Yes. The Baltimore Metropolitan Area is made up of Baltimore City and five surrounding counties. The Commission's hearing, however, focused on the city together with one of those five counties, Baltimore County, which virtually encircles the city.

The contrast between Baltimore City and Baltimore County, which is sometimes referred to as the "golden horseshoe," in many ways typifies the contrast between suburbia and central cities throughout the Nation. The backdrop is growing racial polarization between the two.

In 1950, Baltimore County was 6 percent black. Ten years later, it is

3.5 percent black. And in the decade to date that percentage has declined even further.

Over that same 20-year period, the black percentage of the population in the city has grown from 24 percent to almost half.

Increasingly poor and black, Baltimore City has serious housing problems. With 11,000 public housing units, the city has 3,000 families on the waiting list and estimates that the actual need is vastly greater.

In Baltimore County, on the other hand, there is no public housing, and each year a number of Baltimore County residents apply for public housing in the city.

Baltimore City expenditures for social services in 1970 were more than \$100 per capita. In the same period, per capita expenditure for social services in the county was \$7.80.

The property tax rate in the city is 55 percent more than in Baltimore County.

As in St. Louis, the movement of firms out of the city of Baltimore, together with the failure of job growth in the city to match that of the county, was found to contribute to high unemployment rates in the city among black workers. In some predominantly black census tracts, unemployment was found to range as high as 27 percent.

The Commission found that there were many forces which have created and which continue to create this racial and economic polarization. One factor has been the displacement of blacks from residence in the county. Demolition to make way for renewal and for highway construction combined with the lack of other low-cost housing in the county forced many low-income black families into the city.

A significant contributing cause was the zoning of black residential areas in the county for industry or business.

In addition to the effects of planning and zoning, another cause of racial polarization has been the dual housing market. While there is a serious lack of low- to moderate-income housing in Baltimore County, at the same time it is also true that over the past several decades there have been many thousands of blacks who could have afforded to purchase housing in the county. Discriminatory exclusion of blacks from residence in much of the county was overt in the 1950's.

While discrimination in the following decade was more subtle, it was scarcely less effective. We found that traditions of racial separation and exclusion have become deeply engrained.

One striking aspect of racial polarization which the Commission noted was the pervasiveness of the sense of fear and of separation. Individual homeowners, like individual neighborhoods within the county, seemed to stand in isolation always fearful that the problems of the city, often understood to be the problems of the poor and the black, would overtake them. Such fears, the Commission found, seem to be reflected in the perceptions and the actions of the Baltimore County government as well.

Federal statutes and regulations place principal reliance for sound and orderly development of the Baltimore Metropolitan Area upon the Metropolitan Regional Planning Council. This Regional Planning

Council, like similar planning and review agencies in other metropolitan areas, is comprised of representatives of each of the metropolitan area jurisdictions under the State. Under Federal regulations, the Regional Planning Council is responsible for reviewing federally assisted project proposals to assure that they are consistent with the sound and orderly development of the metropolitan area.

The Regional Planning Council appears to have done a good job of diagnosing the problem of racial polarization and inequality faced by the Baltimore Metropolitan Area. One of its reports states:

"In the Baltimore region, the low income Negro population is the group most severely affected by the current housing shortage. A victim of both racial and economic discrimination, the Negro has little choice but to locate in the inner city where much of the housing stock is old and in substandard condition."

However, the Regional Planning Council has generated no meaningful plans for solving these problems, and even were it to do so, there is no mechanism to which it can turn for implementation.

So it is, then, that despite Federal laws, regulations, and policies to the contrary, Federal funds administered by the Department of Housing and Urban Development, the Department of Transportation, and by numerous other Federal agencies continue to subsidize the development of a burgeoning Baltimore County, while racial polarization between the city and the suburbs mounts.

MR. HUNTER. Thank you.

VICE CHAIRMAN HORN. Mr. Gross, would you define either now or for the permanent record in parentheses on page 2 of your statement what you mean by social services? What are the governmental categories of expenditures you have included there?

MR. GROSS. I will be sure that is included in the record, if that is satisfactory.

VICE CHAIRMAN HORN. All right.

VICE CHAIRMAN HORN. Any further questions? Commissioner Mitchell?

COMMISSIONER MITCHELL. I'd like to ask this question of each of you or both of you, assuming you are equally familiar with the St. Louis and the Baltimore hearings. In both cases you are testifying, summarizing the findings of those meetings in such a manner as to indicate that it is a failure of various Federal agencies, bureaus, regulations, or the enforcement thereof, either through failure to seek compliance in accordance with Executive regulations, failure to make highway funds available in accordance with the intent of the law, failure to provide housing in accordance with the intent of the law.

Over and over again you turn to the Federal Government as a failure or to identify failures that have contributed to the disastrous situations in both of these cities.

It has been said of the Commission that it is not looking at the bright side of things, that it is accentuating the negative and failing to find the positive. In summary, as you think of both of these hearings and summaries you have just made, would you say the Commission is being

unduly severe in its criticism of the Federal Government with respect to civil rights conditions and the circumstances relating to them in either or both of these cities or areas or suburban regions surrounding the cities?

MR. BRADLEY. I don't think so. I think when you look at what is happening in St. Louis—I am most familiar with what is taking place in St. Louis—the laws and programs which are in existence I think could go a long way toward alleviating those situations. And yet these laws, these programs are not having the impact that they were intended for, but, on the contrary, in case after case we find just the opposite happening, that urban renewal, for example, is being used not to improve an area and to provide economic resources and upgrade an area, but as strictly to move black people out of an area.

I think the Federal Government does bear very large responsibility for what is happening, and what is needed is not additional Federal laws. What is needed is enforcing what we already have. I think that's what we generally found.

MR. GROSS. Yes. If I could just add briefly, I think that given two facts— One is that Federal funds have done so much to develop the suburban areas of our country. And, two, that that suburban development is done in such a way as to wreak tremendous social costs principally on the portion of our population, the poor and minorities, least able to pay that cost. This shocking condition could be accepted only if there were no alternative and if there were no remedy.

I think the question that those two facts raise is: Are there things that the Federal Government could be doing to avoid these consequences?

My own view is that the answer to that is a clear yes—that the laissez faire policy is simply unacceptable. And, of course, that's to a great extent what this hearing is addressed to.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Thank you. Any further questions?

COMMISSIONER RUIZ. Yes. Are the facts upon which you base your résumé of conditions in St. Louis and in Baltimore matters of special reports filed with the Commission and distributed? Have the matters involved been reduced to transcript form?

MR. BRADLEY. Yes, we have transcripts of both of the Commission hearings.

COMMISSIONER RUIZ. So that if anyone wishes to check upon your conclusions, those are matters that are available for public record? Is that correct?

MR. BRADLEY. Yes. The Commission has the transcripts.

COMMISSIONER RUIZ. And they are available to anyone who may desire them with good cause?

MR. BRADLEY. Yes.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Thank you very much, gentlemen.

Will the next panel, Mr. Smith, the Chairman of the Maryland State Advisory Committee of the Commission, and Rev. Richard Ellerbrake,

the Chairman of the Missouri State Advisory Committee, please come forward?

(Whereupon, Mr. Wofford Smith and Rev. Richard Ellerbrake were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. WOFFORD SMITH, ACTING CHAIRMAN,
MARYLAND STATE ADVISORY COMMITTEE, COLLEGE PARK,
MARYLAND AND REV. RICHARD ELLERBRAKE, CHAIRMAN,
MISSOURI STATE ADVISORY COMMITTEE, TO THE U. S.
COMMISSION ON CIVIL RIGHTS, ST. LOUIS, MISSOURI**

VICE CHAIRMAN HORN. Please be seated.

MR. HUNTER. Will both of you please state your name and position with the State Advisory Committees for the record?

REV. ELLERBRAKE. My name is Richard P. Ellerbrake. I am Chairman of the Missouri State Advisory Committee to the United States Commission on Civil Rights.

MR. SMITH. My name is Wofford K. Smith. I am Acting Chairman, Maryland State Advisory Committee, United States Commission on Civil Rights.

MR. HUNTER. Mr. Ellerbrake, how long have you been with the Missouri State Advisory Committee?

REV. ELLERBRAKE. Since 1962.

MR. HUNTER. Mr. Smith, how long have you served with the Maryland SAC?

MR. SMITH. Since 1965.

MR. HUNTER. With the Maryland SAC since 1965?

MR. SMITH. 1965.

MR. HUNTER. Thank you. Mr. Ellerbrake, if we can look at the situation in St. Louis. Since the Commission's hearing was held has the role of employers in promoting opportunities for minorities in suburban housing improved?

REV. ELLERBRAKE. Not significantly, no.

MR. HUNTER. Mr. Bradley in his testimony I believe mentioned the McDonnell Douglas Corporation. Could you bring us up to date briefly on what developments there have been with that since the Commission's hearing?

REV. ELLERBRAKE. Let me say that there are many of us in St. Louis who think back with much appreciation to the 1970 January hearing of this Commission, particularly, if I might say so, to Commissioner Mitchell's comments at that time and the media's response to that which fruited in our judgment in a great flurry of activity on the part of McDonnell Douglas and also on the part of the Federal Government in taking some belated action to insure that the company was indeed in compliance—and in fact it was not.

Since that time, however, there has been some improvement made—not, obviously, as much as we would like to see—but certain concrete steps have been taken on the part of McDonnell Douglas which was picked out at that time.

And I might just summarize several of those:

One, McDonnell Douglas has greatly strengthened its housing office and has as a result of that hearing a year ago, year and a half ago, taken some significant affirmative action in making sure that housing which is available to its employees is available on a nondiscriminatory basis.

Now, we don't think they have done as much as they might do, but they have at least circularized rather broadly those who are on their housing lists, sent out a letter, made those individuals send back a signed statement saying that they will not discriminate in housing. This we feel is a good thing.

They have taken some persons off of the approved list because they have not been willing to so indicate.

Beyond that, McDonnell Douglas also was instrumental—we felt rather badly that it was so quiet at first—in making some \$30,000 available as seed money for the moderate-income housing project in Black Jack.

MR. HUNTER. Could you tell us more about the status of that project?

REV. ELLERBRAKE. About Black Jack?

MR. HUNTER. Yes. Very briefly, please.

REV. ELLERBRAKE. Well, we have been hoping for a long time that Father Hesburgh's letter to the Attorney General would result in the Attorney General's entering the case on behalf of Black Jack. And if the timing is approximately accurate, around this time I think that the Attorney General and Secretary Romney are having a press conference. If they are doing the right thing, the Attorney General is going to enter the Black Jack case. But until that happens, of course, the thing is somewhat at a standstill at this point.

We do feel in Missouri that there are already enough people of moderate-income living in the Black Jack area that it's certainly not reasonable to take the approach, even if one were to accept the logic, which I would not, that you can separate racial from economic discrimination and thus allow a continuation of no action in Black Jack on economic grounds.

They already have people of that economic level living there.

MR. HUNTER. Thank you. If I could turn to Mr. Smith for just a minute, Mr. Gross in his description of the Baltimore hearing mentioned the fear that the people in Baltimore County have, fear of problems of the city. He says this is often understood to be problems of the poor and the black.

Then he continues that this fear seems to be reflected in the perceptions and actions of the Baltimore County government as well.

Do you think that is an accurate description and has that changed since the Commission's hearing?

MR. SMITH. Yes, I think it is an accurate description because we held a followup open meeting in January, following up the Commission's open hearing of last August, and there seems to be a great fear of a false stereotype that the officials and other community leaders seem to have concerning, for instance, public housing. They keep referring to them as built-in ghettos, as red brick architectural monstrosities, and

various things like this.

And then they express fears of undesirable people coming into their community and changing the standards, property values being lowered, and things of this nature.

And I think it came out in the Commission's hearing in August from the HUD officials' testimony about the sort of public housing that is now available in the Government programs that this simply isn't so.

There is another kind of fear, too. Not only do the people who are the affluent whites and who are in charge of the Government and the people of influence in the county fear an influx of poor and poor blacks mainly from the city, but also the few blacks that do live in Baltimore County also exist under a specter of fear.

In our meeting on January 5, time after time they would testify that they were afraid of what the white people might do to them if they were to try to reach out from their enclaves or to complain about the poor public services that the county is giving them and things of this nature. And we found this was a different kind of fear that also needs to be dealt with.

MR. HUNTER. Has the government of Baltimore County taken any action concerning public housing or leased housing recently?

MR. SMITH. Yes, they have—a minimal thing. Just recently an act was passed by the county council in which they— After having been requested by the city of Baltimore to have a leased program from the city, they denied this, but they did apply to HUD for a leased housing arrangement under the 1937 Act—I think it's Section 23 of the 1937 Public Housing Act of the United States—for a limited leased housing program.

That has been passed by the council, has now been approved by the State, and is now awaiting approval by HUD, which should be forthcoming.

Incidentally, we find that there are 1,700, approximately, people on the welfare rolls who would be eligible to apply for these but there are only going to be something less than 500 units under this arrangement so it's only a token thing. Other than that, there is no public housing—

MR. HUNTER. Do you have an opinion as to why they passed this resolution for Section 23 leased housing?

MR. SMITH. I certainly do.

MR. HUNTER. Could you give that to us, please?

MR. SMITH. Sure. HUD again has done two things. For a number of months HUD has not granted certain water and sewage subsidies to the county, and then HUD also says behind the August Commission hearings that they were going to come into Baltimore County and reevaluate the county's housing program and policies in light of what the Commission found in August, and then as a result of this I think this is the sort of pressure that caused the council to take this much minimal action concerning the leased housing program under that act.

And the reason they took that act is because they wanted something that they could do locally, because Dale Anderson, who is the county executive, and Mr. Francis Barrett, who is the county council chair-

man, have repeatedly and publicly stated that they will not allow public housing to come into Baltimore County.

MR. HUNTER. Do you think there is a real shift here? Will we actually see sort of public housing in Baltimore County?

MR. SMITH. Well, a token. Only what they have to do under pressure—unless they change, make a radical departure from their previous postures.

MR. HUNTER. Thank you. Mr. Chairman, I have no further questions of these witnesses.

VICE CHAIRMAN HORN. Do any of the Commissioners have any questions? Mrs. Freeman?

COMMISSIONER FREEMAN. I have no questions.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. No.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. No.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. When did you last see the McDonnell Douglas affirmative action plan?

REV. ELLERBRAKE. The State Advisory Committee has never seen the McDonnell Douglas affirmative action plan.

COMMISSIONER RUIZ. How do you know there have been improvements on it?

REV. ELLERBRAKE. We have heard from the staff of the Commission on Civil Rights, who has had apparently some access to it, and we have also recently, as recently as 4 weeks ago, had an open meeting in St. Louis to hear from some of those who were present at the January 1970 hearing.

At that open meeting, McDonnell Douglas presented to us facts which indicate that their relative numbers, for instance, of minority employees have increased. This is the substance of the source of our information.

I might say, Commissioner Ruiz, too, because we didn't touch on it, that with regard to McDonnell Douglas and the housing aspect one has to note that there has been really no improvement at all in the metropolitan St. Louis area with regard to the availability of moderate-income housing.

I wouldn't want to mislead the Commission into thinking that the McDonnell Douglas improvement is significant in terms of the overall picture. It is not. That area that you see on the map continues to be divided black and white, rich and poor. And unless something happens, it's going to get worse, not better.

COMMISSIONER RUIZ. What do you suggest with respect to McDonnell Douglas as to what should be done?

REV. ELLERBRAKE. Well, one thing comes to mind certainly. We heard testimony 4 weeks ago that in order to evaluate the degree of compliance the Office of Federal Contract Compliance had three individuals who, on a part-time basis over 3 weeks, made the review. Now, it seems to me when we are talking about literally multibillion dollar

contracts in aggregate that we could do with a little more intensive investigation.

McDonnell Douglas has invited members of your State Committee to come out and visit. Obviously, on a part-time basis for an hour here, an hour there, we are not going to be able to do that kind of a job.

The Federal Government has to make a commitment to serious contract evaluation in order to insure on a continuing basis that McDonnell Douglas remains in contract, in my judgment.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. You might give them 30 days to comply or ask them to take over Lockheed.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I have no questions.

VICE CHAIRMAN HORN. Let me ask you, gentlemen: When we held our hearings in St. Louis and Baltimore, obviously there was substantial press and media coverage of those hearings. What sort of followup has been done by the media and the press on the problems that we focused on in both cities?

MR. SMITH. Dr. Horn, I think a great deal has been done in the Baltimore area. I think the hearing itself, of course, as you pointed out, did create a stir. And it created it not only among the press but among certain private groups, poor blacks mainly, to activate themselves and to get involved with the government process in Baltimore County and Baltimore City as well.

And this generated quite a bit of interest, and the press has been very good at responding to this, and it has been an active, live issue ever since.

We had substantial public interest in our open hearing January 5, and then it kind of made the county council a little bit angry when we issued our report, and then they in turn kind of flew off the handle, and this created even more public interest, and I think a great deal of public interest now exists concerning the problem that didn't exist before.

And while I may be sounding negative, it really isn't negative. I think it's a positive thing. Because a lot of people in my opinion have not been dealing with the problem simply because they didn't know the problem exists. And when things like this happen, when activist groups get to work, when the Commission comes in, and when your State Committee has open hearings, and when the county council gets all upset because the water is being rippled a little bit, then people begin to look about them.

As they drive down the expressway they begin to look out the window of the car and see some of the conditions that exist.

And so I think a great deal of positive interest on the part of the community is resulting, and we hope that because of this that more support will be given to this kind of thing, because the politicians aren't going to act unless they feel the people want them to do something. And so if the people respond in this way to the minimal actions even, then maybe the politicians will act more and more and more to solve these problems.

VICE CHAIRMAN HORN. Reverend Ellerbrake, what is the media response in St. Louis?

REV. ELLERBRAKE. Well, we may not be able to save St. Louis. I'm not entirely optimistic. But let me say that without the media there won't be a chance. Because I think the kinds of things that Reverend Smith has been talking about certainly we could echo in St. Louis.

VICE CHAIRMAN HORN. Have they done special stories on the Black Jack case and others?

REV. ELLERBRAKE. They have followed rather closely the housing. Yes, sir. Particularly Black Jack and McDonnell Douglas they have followed.

There is also I think the fact that the media is present. At the most recent open hearing, for example, Olivette, which never really hit the papers, was discussed. And here it became apparent that HUD some time back promised 24 units to Olivette. The current Director of HUD apparently knew nothing about it. But in the presence of open meeting, open hearing, and the media, the matter was brought to public attention. And if things happen as they should, Olivette will get that project going forthwith.

VICE CHAIRMAN HORN. Is that the Regional Director of HUD you're talking about?

REV. ELLERBRAKE. That's correct, yes. Lack of communication with HUD apparently was rather abysmal.

COMMISSIONER RUIZ. Mr. Chairman, I would like to ask our General Counsel a question if I may. Are affirmative action plans top secret? Who can get the affirmative action plans?

May affirmative action plans be procured by labor unions, by groups within Government-funded-and-assisted programs?

Is there some law that says that this can't be disseminated in some fashion so interested people may know about just what the affirmative action plan definitively consists of?

VICE CHAIRMAN HORN. Let me ask our former General Counsel and current Staff Director to answer that question.

MR. GLICKSTEIN. As I understand the position of the Department of Defense, with whom the McDonnell Douglas affirmative action plan has been filed, they regard affirmative action plans as confidential documents that frequently contain trade secrets that aren't within the ambits of the Freedom of Information Act and do not have to be disclosed to the general public.

COMMISSIONER RUIZ. Is that a unilateral determination or is there some law that says an affirmative action plan that may not be technical but simply sets forth policy and matters that have to be done with respect to equal opportunity is a trade secret?

MR. GLICKSTEIN. There is no law that says that.

VICE CHAIRMAN HORN. Wait a minute. Let me get this.

MR. GLICKSTEIN. There is no law that says that affirmative action plans are confidential. In other words, it's interpretation of the Department of Defense.

VICE CHAIRMAN HORN. It's interpretation of the Department of

Defense, despite the Freedom of Information Act I take it?

MR. GLICKSTEIN. That's correct.

VICE CHAIRMAN HORN. Have we asked the Department of Defense to cite the particular statute or administrative regulation by which they invoke this authority?

MR. GLICKSTEIN. As I recall, they merely said that it comes within the exceptions of the Freedom of Information Act, but we can check that for you.

VICE CHAIRMAN HORN. Well, let's furnish at this point in the record the answer of the Department of Defense as to what they are basing that denial on.

I can understand, the same as with Department of Labor BLS statistics or census statistics, that in some cases you would reveal the internal workings of the company to the extent that it would not be damaging to a confidential relationship and to the freedom with which companies report this information, but I think Commissioner Ruiz has raised an interesting point as to perhaps getting maybe all of the plan minus that particularly sensitive information of employment categories or—

COMMISSIONER RUIZ. I think if affirmative action plans were generally dispersed among interested people, a great deal could be done, and I think that this Commission should go into that in a very specific manner and find out whether this is just a general unilateral determination upon the part of the contractor or whether in fact it is as a matter of law considered a trade secret.

VICE CHAIRMAN HORN. Thank you very much, gentlemen, for your testimony. The work of both you and your colleagues on the State Advisory Committees has been essential and helpful to this Commission, and I think the country, over the years. We are deeply grateful for your interest and activities.

Let me add before concluding this portion of the hearing that we have had the assistance from time to time today of three staff attorneys, Leona Yurden, Michael Smith, and Steve Brown, and we're grateful for this help from our very able General Counsel's staff.

At this point the Commission will recess until 10 minutes after 4, at which time we will begin the portion of the hearing dealing with the State Advisory Committee activities in Boston, Massachusetts; Milwaukee, Wisconsin; and Phoenix, Arizona Metropolitan Areas.

VICE CHAIRMAN HORN. Will Mr. Segal, Mr. Julian, Mr. Warren, and Mrs. Madrid please come forward?

(Whereupon, Mr. Robert E. Segal, Mr. Percy Julian, Mr. Morrison F. Warren, and Mrs. Rita Madrid were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. ROBERT E. SEGAL, CHAIRMAN, MASSACHUSETTS
STATE ADVISORY COMMITTEE, BOSTON, MASSACHUSETTS; MR.
PERCY JULIAN, CHAIRMAN, WISCONSIN STATE ADVISORY
COMMITTEE, MADISON, WISCONSIN; AND MR. MORRISON F. WARREN
AND MRS. RITA MADRID, ACTING CO-CHAIRMEN, ARIZONA STATE
ADVISORY COMMITTEE, PHOENIX, ARIZONA**

VICE CHAIRMAN HORN. Please be seated. Mr. Hunter?

MR. HUNTER. Thank you. Would each of you please state your name, address, and position for the record, starting with Mrs. Madrid?

MRS. MADRID. Rita Madrid from 12 West Harwell, Phoenix, Arizona, housewife, and I am Acting Co-Chairman for the SAC, Phoenix.

MR. HUNTER. In Arizona?

MRS. MADRID. Yes.

MR. HUNTER. Thank you. Mr. Warren?

MR. WARREN. My name is Morrison F. Warren. I am an Acting Co-Chairman of the SAC in Phoenix, professor at Arizona State University. I live at 2131 East Violet Drive in Phoenix.

MR. HUNTER. Thank you. Mr. Segal?

MR. SEGAL. My name is Robert E. Segal. I am the Chairman of the State Advisory Committee in Massachusetts.

MR. JULIAN. And my name is Percy Julian. I am an attorney, and I am the Chairman of the Wisconsin State Advisory Committee, and I am from Madison, Wisconsin.

MR. HUNTER. Thank you.

If we could start by looking at the Boston Metropolitan Area, Mr. Segal, what involvement has the Massachusetts State Advisory Committee had with the problem of suburban access in the Boston area?

MR. SEGAL. We have been painfully aware of the fact that the experience of Route 128, which is our golden circumferential, industrial and beauty spot route, about 15 miles north and west of Boston, will probably be repeated with Route 495 which is 35 miles north and west of Boston.

(See map, p. 614.)

MR. HUNTER. Excuse me. To get some perspective on the location of these roads, we see Route 128 on that map, but I believe Route 495, which you said is 35 miles away from the city, is so far out that it wasn't included on our map of the metropolitan area?

MR. SEGAL. Yes.

MR. HUNTER. Is that the situation?

MR. SEGAL. It runs quite a distance out, heading way up toward Lawrence and Lowell and down around fairly close to Worcester, Marlborough, in that area. It makes quite an arc, tremendous stretch.

MR. HUNTER. Your Advisory Committee held an open meeting where the effects of these roads were considered?

MR. SEGAL. Our Advisory Committee held an open meeting in 1970, June 1970, in cooperation with the Massachusetts Commission Against Discrimination, and we tried to meet in those cities that had less than 1 percent black population. Those communities weren't very hard to

find. We left out Cambridge and we left out Medford which are traditionally old cities with some more black population because of history. But we did hold hearings in various parts of the belt zone.

MR. HUNTER. What has been the effect of the circumferential highways, Route 495 and Route 128, on the growth of the metropolitan area?

MR. SEGAL. Well, we have had a tremendous amount of industry come in and a lot of residential development. We have had a great deal of movement of manufacturing units from the city of Boston out into the suburban areas. Route 128 has been known as the new electronics range. However, I regret to report right now that the unemployment along that area is so tremendous that we had an indication in the Boston Globe just before I came up here that some 10,000 engineers and other scientific people have been laid off.

There have been five suicides there of these people in higher-income brackets lately. And if the engineers and the scientists are laid off, you can imagine what is happening to the production people at a lower-income level.

But by and large over the years there was a tremendous growth in industry out there.

I would like to cite the testimony that was given by Mr. J. Kinney O'Rourke before our Committee. Mr. O'Rourke represents the Boston Economic Development and Industrial Commission. And in a survey of 309 Boston firms, 40 percent indicated that they had either decided or were seriously considering moving, thus producing a potential loss to Boston of up to 11,500 manufacturing jobs. And those jobs represent 40 percent of all jobs currently occupied by minorities and paying more than \$5,000 a year.

This is one illustration of the exodus of manufacturing plants out of an area where people in the black ghetto might have had access to these jobs.

MR. HUNTER. Were these roads that have brought about such great development in the metropolitan area financed by the Federal Government?

MR. SEGAL. They certainly were financed in part by the Federal Government. I'm not prepared to say precisely what percentage. I don't happen to know. But they could never have been built without the muscle of the Federal Government.

MR. HUNTER. These employers that have moved to these areas around the beltways, have very many of them been Federal contractors or subcontractors?

MR. SEGAL. The employers?

MR. HUNTER. Yes.

MR. SEGAL. Some, yes.

MR. HUNTER. Is the type of work they have been doing the kind of work that is often done by Federal contractors for the Federal Government? Or is that hard to say?

MR. SEGAL. That's pretty hard for me to say.

MR. HUNTER. Do many minority group members live in the outer

suburbs which the outer beltway is opening up?

MR. SEGAL. If you find minority group members, we would like very much to know about them. Minority group members insofar as Massachusetts is concerned are pretty much concentrated not only in Boston but in one section of Boston, Roxbury, where I believe perhaps 85 to 90 percent of all the blacks who live in the Bay State live, in the Roxbury area.

MR. HUNTER. Are the communities located around the outer beltway doing anything about this situation?

MR. SEGAL. The communities?

MR. HUNTER. Yes.

MR. SEGAL. I think you would have to divide that into two parts. First, we would have to take the industries, and we have indication after indication that there was a great deal of interest in trying to get new industry, but insofar as trying to promote equality of opportunity, despite the fact that Massachusetts was one of the first States in the union to give us an FEPC, there was little indication that the industry was working very hard to spread the idea of acceptance of equality of opportunity.

Insofar as the town fathers are concerned—and I think that this might be one unique point or distinctive point about Massachusetts—let me say that the parochialism of the communities goes so deep, the insularism, the determination to try to take care of that community right where it is and not think of what is going on in the adjacent towns—this goes so deep that it is terribly hard to break through and get any kind of a regional concern either for housing for low-income people or for employment on an equal opportunity basis.

MR. HUNTER. When the companies move into these outer suburbs, do you know whether they sometimes discuss housing problems with the communities in which they are moving?

MR. SEGAL. If they do, it seems to be almost a top secret—we doubt it very much. The people who live in these communities, by and large, get rigid because they are afraid their schools are going to be flooded with minority group people and that their own kids will be crowded out.

I would say that there is a much greater concern about getting land with the help of Government for conservation, getting land for parks, further recreational facilities, this sort of thing, than there is any real consideration for the needs of those lucky minority group people who may be able to penetrate the rigid walls of suburbia and get in.

MR. HUNTER. Thank you. Let's turn now to the Milwaukee area. Mr. Julian, can you tell us to what extent blacks have been able to move into the suburban areas around Milwaukee?

MR. JULIAN. Well, our State Committee found that to almost no extent. If one were to ask a pointblank question: "Are black people able to move into the suburbs of Milwaukee?"—which you can see on your map on the chart to your far left—the answer is: "Definitely not."

If one takes a look, for example, at the 1970 census, it listed Milwaukee as the second most segregated suburban area in the Nation, and

the Mayor of Milwaukee when he appeared before the State Committee confirmed this fact himself.

More recent census statistics show that the imbalance is really even worse than even initially announced. Earlier figures, for example, disclosed that only 0.2 percent of blacks lived in suburbia. It has since been learned that 945 black persons live outside the city of Milwaukee. But of those 945, only 433 live in households. The remaining 522 actually reside in hospitals, schools which may be attached to correctional institutions, correctional institutions themselves, or in servants' quarters.

MR. HUNTER. Do you think this is a matter of free choice or is there something else operating here?

MR. JULIAN. No, I do not think it is a matter of free choice. I think that there are a number of factors which contribute to the absence of nonwhites.

For example, the high cost of homes and high minimum requirements for lot and house size. The perceived hostility of neighbors. The attractive prices on homes sold in the city's north side which continues to change rapidly from white to black. And, finally, a dual real estate market.

Let me say something about that. For example, one Realtor who was interviewed by a member of our staff estimated that only three of the more than 40 Realtors on his staff are willing to show nonwhite customers houses in all-white neighborhoods.

That's an example of some of the difficulties that account for the lack of blacks in the suburbs.

COMMISSIONER MITCHELL. Mr. Chairman, can I get a definition of the suburbs of Milwaukee?

(See map, p. 615.)

MR. JULIAN. The black line that is to the left of the map where you see Wauwatosa, West Allis, that's the end point of the city of Milwaukee, and so, so suburban Milwaukee we could catch that as Wauwatosa, West Allis, Whitefish Bay which is one of the dots to the far right, Shorewood, Fox Point, St. Francis, Cudahy. Those are suburban areas.

MR. HUNTER. If we could look at possible solutions to deal with the problems that you mentioned for us, we heard this morning about the Miami Valley Regional Plan for housing which sets goals for each community in the metropolitan areas as far as low- and moderate-income housing is concerned. Is this sort of solution possible in the Milwaukee Metropolitan Area?

MR. JULIAN. It would be possible I think if we could get cooperation of the various governmental units, and that so far has been unobtainable. We think that there are a number of reasons for the failure of getting blacks to the suburbs, but the largest single reason I think is the failure of various governmental units to cooperate with one another.

The city of Milwaukee has said that it isn't going to do—that it doesn't feel that it should do any more until the suburbs move. The suburbs say: "Well, we need the help of other people." And I think that a metropolitan developmental corporation having multicounty jurisdiction for providing housing for low-income persons is seriously

needed.

And I think that without some impetus from Federal, State, or regional level of government, the current situation is not going to change.

The 26 suburbs surrounding Milwaukee County continue to ignore the problem, continue to ignore the issue of inaccessibility.

Eighteen months ago Milwaukee County initiated a housing program, but only four houses, all of them in the 235 category, have been built, and all of them within the city of Milwaukee.

The county board passed a resolution saying to the suburbs: "Accept your fair share of low-income housing." And not one of the suburbs have yet responded.

The county is trying to build houses in West Allis, 235 homes, and is meeting with all sorts of resistance, zoning problems and things like that.

And now, for example, the city of Wauwatosa, which appears on your map, recently rezoned land which was intended for Section 235 use. And it now has minimum requirements exceeding the limits of the 235 program. Thus, not even 235 can be built which certainly I don't consider low-income housing.

MR. HUNTER. Thank you. If we could look now at the Phoenix Metropolitan Area, Mrs. Madrid, I believe that the Arizona State Advisory Committee recently held an open meeting on housing opportunities in the Phoenix area. Is that correct?

MRS. MADRID. Right. We held meetings May 14 and 15 and some of the subjects brought up there were suburban access, the role, functions, and activities of the State and city of Phoenix Human Relations Departments, local citizen panels to discuss the problems of Chicanos and blacks that relate to education and community organization, and the 1990 Phoenix plan was brought into this.

MR. HUNTER. We have looked at metropolitan areas of Baltimore, Boston, St. Louis. These are older metropolitan areas, while Phoenix is a new and growing area. What has happened to the population in the city of Phoenix and what has happened to the area the size of the city of Phoenix in the last 10 or 20 years?

MRS. MADRID. Well, in the last 20 years— In 1950 they had 106,000. By 1960 that had gone up to 434,000, which almost tripled. And in 1970 they have 600,000.

As far as mileage, square mileage, in 1950 it was 17. In 1960 they had extended to 187, and by 1970 they have it extended to 195 square miles.

MR. HUNTER. One interesting thing about Phoenix we have been told in the past, is the arrangement of school districts. Mr. Warren, could you explain that for us?

MR. WARREN. Yes. Phoenix has a total of 12 elementary school districts, and the external limits of these school districts comprise or are coterminous with the Union High School District. These school districts grew up somewhat uniquely in view of transportation in the Phoenix area.

Each local incorporated area would build its own school. And then as

Phoenix began to grow, the Phoenix area began to grow, the schools became larger, the school districts became larger, and we currently now have 12 elementary school districts and one Union High School District.

MR. HUNTER. These school districts have their separate tax bases, do they?

MR. WARREN. Separate tax base, their own school boards, and they are autonomous, all receiving funds from the State, and a so-called qualitative program, a foundation program, translated into X number of dollars from the local county.

Theoretically, all students in the elementary schools in the Phoenix area are financed relatively equally. A local school district, however, has within its franchise to tax its local citizens to provide a more qualitative program if they see fit.

MR. HUNTER. Is there much segregation within the schools in the Phoenix area between these districts?

MR. WARREN. Yes, there is. Actually in the Phoenix area, of the 115-plus census tracts, roughly 85 percent of black people are concentrated in roughly nine of these census tracts. Three of these tracts are in South Phoenix where roughly 40 percent of blacks probably live within three census tracts.

Now, generally, this is true for Mexican Americans, also. The schools in the core area, the Phoenix elementary schools, which is the largest school district in the Phoenix area— It has a total of roughly 20 schools, and blacks and Mexican Americans are the predominant group in five of these schools.

Now, there is a sprinkling of black students and Chicano students in the other 11 school districts. In fact, of the school districts, the Wilson School District near the airport, if you're familiar with that area, a Murphy School District which is west of the Phoenix Elementary No. 6, the Roosevelt School District which is south of the Phoenix area, south of the Salt River, are the schools where blacks and Chicano students are primarily concentrated.

MR. HUNTER. Does the location of public housing have any effect on the segregated situation in the schools?

MR. WARREN. I think it's a very significant variable. Actually, we have I think roughly seven public housing units, a total of 1,500 occupants. I would suspect 45 percent black, 35 percent Chicano, 20 percent white. All of these public housing units are housed in the same school district.

There were attempts through the years of the public housing authority to distribute these units throughout the city. Local school patrons fought the plan. And because blacks only constitute 4.5 percent of the population and Chicanos roughly 12 percent, they have never been a politically viable group and, therefore, have not meaningfully been involved in the decisionmaking process.

So there are many people who are saying in the city of Phoenix now that in those very significant decisions that are made about where people live, the kinds of work that people do, where freeways will be

located, etc., etc., that certain areas of the community, primarily South Phoenix, ostensibly are being programmed for failure, not because a group of people are getting together and making this decision but because the black, the Chicano, and the poor are not involved meaningfully in the decision, and so cumulatively they get the short end of the stick.

MR. HUNTER. Do you know whether the school districts in Phoenix receive any Federal financial assistance?

MR. WARREN. Certainly. The Phoenix Elementary School District No. 1, Roosevelt School District, Wilson School District, Murphy School District, I would suspect all are recipients of Title I monies. The Union High School District certainly is a recipient of Title I monies.

MR. HUNTER. Thank you. Mrs. Madrid, how would you compare the freedom of Chicanos to live where they choose in the Phoenix area with that of blacks?

MRS. MADRID. Well, I would have to make two comparisons—first, the professional Chicanos and the poor. The professionals I believe would have a much easier time moving into North Phoenix than the black professionals. And I say this because of an incident that happened 2 years ago with a Dr. Lang who is black.

He moved into North Phoenix, and he had all kinds of opposition. He was harassed. He was even hurt in the process of protecting his property.

And we have a sprinkling of Chicano professionals that do live there and this hasn't happened. So I think that they are accepted.

MR. HUNTER. Do these Chicano professionals tend to lose their identity with the Chicano community when they move into the middle class and upper middle Anglo areas?

MRS. MADRID. They do. You never see them at any of the Chicano gatherings, or if there are any problems that we meet to discuss you never see any of the professional people there that have moved away.

MR. HUNTER. What about the situation for lower-income Chicanos? Do they have much choice about where they live?

MRS. MADRID. No, I believe that the lower-income Chicanos, because of the money situation, they have to stay in South Phoenix or the public housing.

MR. HUNTER. Thank you.

Mr. Chairman, I'd like to introduce as exhibits the three maps that we have of these metropolitan areas.

VICE CHAIRMAN HORN. Without objection, they will be inserted at this point.

(Whereupon, the documents referred to were marked Exhibits No. 15-17 and received in evidence.)

MR. HUNTER. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. I have no questions.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mrs. Madrid, I notice on the map of Phoenix and vicinity that there are two Indian reservations. Do you

have information concerning the conditions of the Indians with respect to the housing or the schools—you or Mr. Warren?

MR. WARREN. Yes, we have the Gila Indian Reservation and the Salt River Indian Reservation particularly. I am a professor at Arizona State University, and we have a department of Indian education. I would suspect you are aware of the fact that there is a great turmoil in the Indian communities now presently as to who will control the schools and what will be the nature of the curricula in the schools.

In Phoenix we have the poverty project that is known as Leadership and Education for the Advancement of Phoenix—in short, “LEAP”—and it has been very concerned about the education of the urban Indians primarily.

I am not thoroughly familiar with the unique legal interaction between the public schools and the Indian reservations. However, I do know that there is a large Indian school located in Phoenix and there are some public schools on the Indian reservations.

COMMISSIONER FREEMAN. Do you have any information concerning the housing that is available to Indians either on the Indian reservations or in the city of Phoenix for those who are not living on the reservation?

MR. WARREN. Well, I can say categorically that it is over 90 percent dilapidated and deteriorated. It is a very bad situation.

COMMISSIONER FREEMAN. Is this true both on the Indian reservations and also within the city of Phoenix?

MR. WARREN. And within the city. That is true.

COMMISSIONER FREEMAN. Among the three minorities, black, Chicano, and Indian, how would you assess the living conditions in terms of the availability of housing? How would you rate them?

MR. WARREN. On a qualitative scale I would suspect that blacks generally have been more aggressive in utilizing the mechanisms for upward mobility primarily because there were three public school systems really in Phoenix through the years, one white, one black, and one brown. The teachers and the administrators in the black schools were black. The teachers and administrators in the Chicano schools were white. The teachers and administrators in the white schools were white.

And I think because of the fact that blacks did not have an opportunity through the years to move into the suburbs, blacks upon graduating from college would return to the black community, and through the years they felt a deeper commitment to the black community and to try and improve it.

Now, I say that to say that I think by and large even though at least 90 percent of the housing of blacks in the community could be classed as dilapidated and deteriorating, I would still suspect that generally the norm, the median housing for Chicanos is worse in the barrios, and Indians on the lower end of the scale.

COMMISSIONER FREEMAN. Mrs. Madrid, do you have anything to add?

MR. WARREN. Mrs. Madrid may not agree with that. She can speak

for herself.

MRS. MADRID. No, I do agree. But I think he has said just about everything as far as housing for the three minority groups.

COMMISSIONER FREEMAN. Thank you. I have no further questions.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Segal, you mentioned industry moving out of Boston into the suburbs, about 40 percent. Is that correct?

MR. SEGAL. That was one estimate out of city hall in Boston, but there have been other indices of movement.

COMMISSIONER RANKIN. You don't blame them, do you?

MR. SEGAL. For moving out?

COMMISSIONER RANKIN. For moving out.

MR. SEGAL. Oh, no.

COMMISSIONER RANKIN. And you don't blame the United States Government for helping build 495 and the beltline roads, do you?

MR. SEGAL. As long as the United States Government comes through on some of what I think are its obligations to try to see to it that as industry locates out there, there is lower-middle and low-income housing.

COMMISSIONER RANKIN. And the roads weren't built to keep the blacks inside the city and whites outside? They both have access to the roads? Am I correct?

MR. SEGAL. Those that have cars have access.

COMMISSIONER RANKIN. Well, most people have cars today. I just drove in from Georgetown, and I believe everybody in Washington has two cars.

MR. SEGAL. Well, it has been estimated up our way that it costs about \$1,500 to get any kind of car together that can take you out to these high-speed roads.

COMMISSIONER RANKIN. Well, I'm trying to find out who to blame for this situation. Is it the people in the suburbs? Is that where you're going to put the major part of your blame in the treatment of minority races?

MR. SEGAL. I blame greed. I blame greed along the line, the people who simply will not recognize that you cannot forever keep a group A, group B, group C compressed in a very narrow area.

Boston is a very small city physically. It's extremely small.

COMMISSIONER RANKIN. Well, these people who keep these barriers up, they are highly educated people, most of them, aren't they? I mean relatively speaking? Aren't they?

MR. SEGAL. Well, sir, I happen to recall that a high percentage of Hitler's storm troops were highly educated. A number of them had Ph.D.s. I find no correlation necessarily.

COMMISSIONER RANKIN. They go to church on Sunday too, don't they?

MR. SEGAL. I imagine a great number of them do.

COMMISSIONER RANKIN. So religion and education don't have anything to do with it then? Is that correct? On their ideas of brotherhood of man? It doesn't improve the treatment of minorities?

MR. SEGAL. The way individuals treat minorities it seems to me cuts across all of these elements. Some people who are extremely irreligious can treat minorities very well. I believe Mr. Ingersoll was a good example of this. And some people who are highly religious can do that. But I don't think that necessarily is a criterion. It's what you do with your religion, it seems to me, that counts.

COMMISSIONER RANKIN. That's right. A few years ago we held a voting hearing down in Louisiana, and at that time in order to vote you had to be vouched for by two citizens. And nobody but whites were allowed to vote.

And this black girl came in to her pastor and said: "Well, I'm going to get to vote."

"Why?"

"Because I have two friends of mine who are going to vouch for me. They are Christians."

And the minister said: "When voting is concerned, Christianity goes out the window."

And she never got to vote, by the way.

Now, I find the same thing is true up in Boston. So we shouldn't be the whipping boy down South. The same situation exists up in your area.

MR. SEGAL. I hope I didn't give that indication. Recently the town of Lexington, which is in your history books, one of the seedbeds of the American Revolution, not only voted against low-income housing when some of the fair housing people wanted to go along on that, but it also, alas, kept Mr. Carey and other veterans who had come back from Vietnam off the Lexington Green. It wouldn't let them sleep there one lousy night because of the attitudes of the town fathers of Lexington.

COMMISSIONER RANKIN. That was my point.

Mr. Julian, also, we Southerners should repeal all of our laws on segregation and then go up to Milwaukee and learn how to do it? Is that the basis of your testimony?

MR. JULIAN. I think that is a fair basis of my testimony. Milwaukee is the second most segregated suburban area.

COMMISSIONER RANKIN. Which is the first, by the way? Which is the first? I'm ignorant.

MR. JULIAN. I think you'd have to ask the Department of the Census. They would be better qualified to answer that than I.

COMMISSIONER RANKIN. All you know is that your town is second? Is that it?

MR. JULIAN. I know that the mayor of Milwaukee sat before us and said in his testimony that the census figures showed that Milwaukee was the second most segregated area in the country, and I know that I have seen the census figures that bear that out.

COMMISSIONER RANKIN. And, in your estimate, did he say it with pride or with shame?

MR. JULIAN. I think he said it plainly.

If I can pick up for a moment on your question as to where you lay the blame for the problems, I think the blame lies on all of us. I think the

blame lies on the failure of the American people really to be committed to the idea of equality for all, and only when we are committed, from the President of the United States right on down to the chairman of the county board in Milwaukee County, only when all of us are committed will things change, and not before that.

COMMISSIONER RANKIN. Well, I was interested in and I suggested maybe our religion would make us realize the importance of brotherhood of man. Maybe education would. The third is we could resort to law. Isn't that right?

MR. JULIAN. I think so. But we haven't—

COMMISSIONER RANKIN. None of them—

MR. JULIAN. We have a law. You know, we have a housing law now which says you can't discriminate in housing. And yet in the county of Milwaukee we can't get people to accept their fair share of low-income housing. They don't want to have anything to do with the problem. They want all the black people to stay in the central city. And the central cities are starving to death. They can't even support themselves now.

So we have a very great problem. And I think only when we get a commitment, a real commitment, that we so far don't have, for change, only then will we have change.

COMMISSIONER RANKIN. Thank you, Mr. Chairman.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. What is the black population of Phoenix, Mr. Warren?

MR. WARREN. 4.5 percent of 600,000. Roughly 25,000.

COMMISSIONER RUIZ. 25,000? What is the Chicano population?

MR. WARREN. Well, Chicanos have been classed as white on the census but—

COMMISSIONER RUIZ. Spanish surnames.

MR. WARREN. Spanish surnames, roughly 12 percent.

COMMISSIONER RUIZ. About 50,000? 60,000?

MR. WARREN. Right.

COMMISSIONER RUIZ. Mrs. Madrid, what is this *Valle del Sol* Coalition and what groups make it?

Mrs. Madrid. They are about 12 Mexican American organizations that comprise *Valle del Sol* Coalition, and they have joined forces together and made this.

COMMISSIONER RUIZ. Now, do I understand your testimony that although there are 69,000 Mexican Americans and 25,000 blacks that the blacks have been able to get more upward mobility by reason of aggressiveness?

MRS. MADRID. Right. They have—

MR. WARREN. For one reason or another. We think aggressiveness is probably one of the variables.

COMMISSIONER RUIZ. Well, that's the word you used.

MR. WARREN. I say as one of the variables, yes.

COMMISSIONER RUIZ. And by more upward mobility, what did you mean by that? Are they in positions of—

MR. WARREN. I meant the ability to use the mechanism for upward mobility, primarily the public schools. The median income of blacks in the area is higher. The median years of school completed is higher. And I think the variable is certainly mobility. Blacks have been more stable in the community in view of the fact that many of the Spanish surnames have also been migrants who have moved through the community, and because of leadership. The sophisticated Chicano leadership has become integrated through the years in the dominant group and have not lent—have not served as models, have not intensively related with young Chicano students, have not tried to help to build some superordinate goals for the barrio. They have moved out, the idea being that primarily if they could show the dominant group that Chicanos can do certain things, then perhaps there could be meaningful changes within the dominant group toward the barrio.

I'm not saying in a positive way that blacks have remained because they had to. They remained because the suburbs were closed to them and they tried to make the best out of the situation. But it happened to be a collateral effect in that in this community it is beginning to pay some dividends.

COMMISSIONER RUIZ. Well, would these 60,000 people within Phoenix be considered migrants?

MR. WARREN. No; some of them would be.

COMMISSIONER RUIZ. Some would be? But the large majority of them have been there for many, many years, haven't they?

MR. WARREN. Right.

COMMISSIONER RUIZ. And then some of them have been there for 50, 60, 70 years?

MR. WARREN. Right. But there have been concentrations in school districts—I'm sorry, in schools—primarily housed by Mexican Americans with median years of school completed 5, 6 years, with parents, grandparents with no schooling. And I think it has been increasingly difficult for these communities to seek any kind of parity, to have any kind of leadership.

In fact, it's only recently, within the last 7 years, that Mexican American leaders have said that: "If the dominant community does not want to have anything to do with us, we don't want to have anything to do with them. We don't want to move into their communities."

Blacks have said through the years that they think they have every right to do it, they are American citizens, etc., etc., and they were organized.

And the coalitions, the *Valle del Sol*, the *La Raza*, the *Chicanos Puerta la Casa*, and so forth, are increasingly becoming more community-minded, more social-minded, more politically-minded. And they are aggressively pursuing 235 and other housing.

In fact, one of the very enlightening trends at the university is that increasingly Mexican American students are talking about returning to the barrio, saying that they can lend leadership whereby they can teach the communities to plan, to organize, to direct their efforts, to coordinate, and to control, and from these barrios individual students or

groups of students can move out into the larger society.

COMMISSIONER RUIZ. Has this been because of mostly education, bad education? You were talking about—

MR. WARREN. Oh, I would certainly— Being an educator, I would think that education is a very critical factor.

COMMISSIONER RUIZ. Are there steps being taken in Phoenix now to lick that problem?

MR. WARREN. I think so. The superintendent in the largest school district in the area is Chicano, and the No. 3 man in that area is Chicano.

In the area where I live, where for 75 years we never had a black on the board, we have two blacks, two of five, on the board. In fact, we're fighting now to get a Chicano on the board.

Some of us have had some influence in this area where 35 percent of the students are Chicano and about eight or 10 teachers which constitute less than one-fifteenth of the teachers are Chicano, so we're forming a coalition to help to appoint a Chicano as personnel officer and I think it will be successful.

COMMISSIONER RUIZ. This is a separate coalition from the one that was mentioned by Mrs. Madrid?

MR. WARREN. Right.

COMMISSIONER RUIZ. Now, with relation to annexations, have they been made to displace the Mexican Americans by zoning them into industrial areas and out of the community?

MR. WARREN. No, not really. Phoenix has pursued a very aggressive stance in annexation to avoid some of the experiences in the East where there were so many municipalities.

There is a new 1990 plan with broad outlines of land usage in the Phoenix area being distributed about the community.

COMMISSIONER RUIZ. Do you have that plan with you?

MR. WARREN. I don't have it.

COMMISSIONER RUIZ. Can you furnish it and we can make it a part of the record in this case?

MR. WARREN. Yes, we certainly can. One of the architectural students at ASU, Mike Enriques, as part of his master's dissertation, studied the plan, and he is of the opinion that the locations of commercial and industrial usages will tend to block the barrio so that it cannot expand, cannot improve itself, and I think his logic and I think his facts are quite logical.

COMMISSIONER RUIZ. Now, with respect to these barrios that you are speaking of, are the Mexican Americans that live within and confined within those barrios—do they usually own their homes, their little plots?

MR. WARREN. Yes.

COMMISSIONER RUIZ. With respect to this plan, 1990 plan, concerning zoning in the future, does it appear as though these places are to be obliterated by industrial uses?

MR. WARREN. I think the impact would be that if industry moves in the areas the property values will be depreciated, and the collateral

effect of the zoning for industry will eventually lead to zoning of the barrio also for industry, and it becomes very restrictive.

COMMISSIONER RUIZ. Well, does that mean that Phoenix is projecting itself into the future until the year 1990 to eliminate the barrio by industrialization?

MR. WARREN. Not necessarily to eliminate it as much as to compress it. Because there are difficulties in moving into the suburbs because of land use and also because of the price of property and the difficulty that we are having—and scattered housing—and the difficulty we are having in building 235 in the suburbs.

So we think the short-term effect would be the concentrations of the barrios.

COMMISSIONER RUIZ. Now, politically speaking, are there any Spanish surnamed persons on the city council?

MR. WARREN. Yes, there's one on the city council.

COMMISSIONER RUIZ. How many are there all together on the city council?

MR. WARREN. I was the vice mayor in 1969. I should know. I'm saying seven. I'm just guessing. Six or seven?

COMMISSIONER RUIZ. Six or seven?

MR. WARREN. Yes.

COMMISSIONER RUIZ. I see. Is this voting gerrymandered in any way in Phoenix?

MR. WARREN. No. We are elected at large.

COMMISSIONER RUIZ. Elected at large?

MR. WARREN. Yes.

COMMISSIONER RUIZ. But your school districts are in specifically—

MR. WARREN. Right.

COMMISSIONER RUIZ. —definitive districts?

MR. WARREN. Right. We are very concerned about the schools in view of the fact that blacks and Chicanos isolated in school districts do not have the opportunity to communicate with a variety of skilled people.

COMMISSIONER RUIZ. Now, you said that blacks and Chicano students are segregated. Are they segregated together? That is to say, are the barrios made up of Mexican Americans as a rule and then an adjacent area blacks?

MR. WARREN. Right.

COMMISSIONER RUIZ. But they are not in the same community?

MR. WARREN. Oh, yes, they are integrated in the same community. Right.

COMMISSIONER RUIZ. In other words, they are more or less integrated?

MR. WARREN. But not in the public housing units.

COMMISSIONER RUIZ. But they are in the communities?

MR. WARREN. They are in the communities, right.

COMMISSIONER RUIZ. So where the black man has gone into Phoenix he has been going into the poor area, the Mexican American area? Is that correct?

MR. WARREN. Well, these areas were one at one time until public housing units were built in 1942, and one was named Marcus DaNesa, the other Matthew Henson. And for some strange reasons, blacks and Chicanos who had lived together throughout the history of Phoenix were certainly isolated.

Then during World War II in 1945 Mexican Americans were declared white which further alienated the groups. And it's only now that we are beginning to cooperate in trying to seek some parity through the political dimension.

COMMISSIONER RUIZ. And this is done by your coalition—

MR. WARREN. Coalition. There is a black coalition. There is a Chicano coalition.

COMMISSIONER RUIZ. I see.

MR. WARREN. We are trying to learn to work together.

COMMISSIONER RUIZ. And how is that getting along?

MR. WARREN. Well, I like to think good even though we are fighting over the petty jobs in the poverty program.

COMMISSIONER RUIZ. Fighting for the same dollar?

MR. WARREN. Yes. But I think there is unity in the diversity that exists.

COMMISSIONER RUIZ. What is your opinion, Mrs. Madrid, on that? Are you getting together or are there misunderstandings?

MRS. MADRID. Well, I think there will always be misunderstandings even among the black coalition themselves and the Chicano. But I think that we are beginning to realize that we have to get together.

COMMISSIONER RUIZ. Are you getting any resistance from the balance of the community on that coalition?

MRS. MADRID. Resistance as to what? Just for being there?

COMMISSIONER RUIZ. For political purposes let us say.

MRS. MADRID. I don't believe so.

COMMISSIONER RUIZ. In other words, you are gaining strength and the balance of the community is looking to you for votes now?

MRS. MADRID. I believe if they aren't right now that they will in the future.

COMMISSIONER RUIZ. You think it will be productive then?

MRS. MADRID. Yes, I definitely do.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Let me just comment at this point. I have often heard congressional hearings interrupted for the announcement of World Series ball scores and the success or failure of outer space shots. I am delighted to report on the civil rights ball game here on earth—that at 3:04 this afternoon I am informed by our Staff Director the Department of Justice intervened in the Black Jack case, which has been of keen concern to this Commission. They did not say I believe whether we are playing in overtime or not, and I'll leave that for others to judge.

Mr. Glickstein, do you have any questions?

MR. GLICKSTEIN. No, sir.

VICE CHAIRMAN HORN. I have just one question. We have heard a

lot both in this hearing today and before the hearing about the responsibility and role of political leaders. If you listen to county and city officials, they say the President ought to do more. If you hear the President and other members of the National Administration, they say county and city officials ought to do more.

One group seems to me left out of this hearing today, and I'd just like the brief response from each of you as to the role you see for the State government and the Governors, especially when we deal with such problems as the borderlines between cities and municipalities and counties and such matters of zoning since these are all creatures of the State government.

To what extent has an effort been made in each of your respective States, the three States represented here, to involve the State government in resolving some of these jurisdictional political problems?

MR. SEGAL. In Massachusetts we have a department of community action or activities—DCA. It's not very old. We also have an antisnob zoning law. Any appeals that have been submitted have been more or less put on ice. We feel very strongly, those of us in SAC, that it is up to the department of community activities to move on that.

We are encouraged by the fact that each year the Governor brings in a package of housing laws. We have passed some good legislation in Massachusetts on housing. But we feel that once the law is on the books, it takes a great deal of energy to see that the law is enforced.

To try again to answer your question, very much. There is a great deal that can be done at the State level if the people who have the responsibility are energetic.

VICE CHAIRMAN HORN. How about Arizona?

MR. WARREN. I would like to indicate that I personally feel that State government has great responsibility, in view of its responsibility to its citizens, to try to make alive the idea of the democratic creed. And yet I am not so naive as to feel that there are not elements in a State who tend to control the legislation and that there are certain beneficiaries of the legislation.

I like to think that, between the years 1966 and 1970, on Phoenix City Council we had a very aggressive mayor, Mr. Milton Graham, who furnished exciting leadership and for a short time began to get the community to think about people. In fact, it became a "people" oriented administration and not a "thing" oriented. And in many cases this council went on record as serving as an advocate for people of all racial, ethnic, economic conditions, even challenging the State office, challenging some of our very strong business institutions in the State. This was in some cases a sporadic effort.

But to answer your question particularly, I do think State government has a great responsibility to take a stance for people.

VICE CHAIRMAN HORN. Mrs. Madrid, would you add anything to that at all?

MRS. MADRID. Well, I believe the State government definitely has a responsibility, but I don't know—It hasn't really done as much as it could. I just think there is a lack of interest.

VICE CHAIRMAN HORN. Mr. Julian, how about Wisconsin?

MR. JULIAN. Well, Wisconsin has a department of local affairs and development which is a cabinet rank department headed by a Mr. Charles Hill, who happens to be black. And the Governor recently issued a message on housing which indicates I think a real knowledge of the problem but which requests only a million dollars for the entire State program.

There is an open communities bill which will create a sort of—for lack of a better term—super zoning board, which is still in the committee of the legislature.

I think if one has to put responsibility in Wisconsin, the responsibility is on the officials of the counties surrounding Milwaukee, on Milwaukee County officials—and that's John Doyne, the executive of Milwaukee County—and on the officials of the city. These officials have said: "Give us the power to do something. We have the power. We want something to do." And yet they fail to live up to their requests for power. And I think that that's where it really lies.

VICE CHAIRMAN HORN. Let me ask our General Counsel, have we inserted anywhere in the record so far in this series of hearings the Massachusetts zoning ordinance?

MR. POWELL. No, we haven't, but I believe we can.

VICE CHAIRMAN HORN. Let me suggest it go at this point in the record since it seems appropriate, and without objection it will be included.

(Whereupon, the document referred was marked Exhibit No. 18 and received in evidence.)

Well, if there are no further questions—

COMMISSIONER RUIZ. I didn't hear the Chairman allow the 1990 plan to go in the record as he did just now.

VICE CHAIRMAN HORN. I would be glad to have the submission of the 1990 plan for appropriate review and the possibility of putting it in the record or remaining on file with the Commission. With a lot of our exhibits there is a problem of size. But we would make the appropriate excerpts depending upon the size of the plan.

Without objection, it will be added as appropriate.

(Whereupon, the document referred to was marked Exhibit No. 19 and received in evidence.)

Thank you very much, Mrs. Madrid, gentlemen. We appreciate your coming here, sharing your information with us.

Will Mr. Jackson Pontius, the executive vice president of the National Association of Real Estate Boards, and Mr. Daniel Spaulding of the National Association of Real Estate Brokers please come forward?

For the information of the audience and the Commission, I would suspect that this last portion of today's hearing would last until approximately 6 o'clock, at which point we will recess until 9 o'clock tomorrow morning.

May I ask for an identification of the other gentleman, please? We have Mr. Pontius and Mr. Spaulding.

Mr. Spaulding. He is Dr. Booker T. McGraw, the consultant for the

National Association of Real Estate Brokers.

(Whereupon, Mr. H. Jackson Pontius, Mr. Daniel W. Spaulding, and Dr. Booker T. McGraw were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. H. JACKSON PONTIUS, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF REAL ESTATE BOARDS, CHICAGO, ILLINOIS; MR. DANIEL W. SPAULDING, CHAIRMAN, NATIONAL PUBLIC AFFAIRS COMMITTEE, NATIONAL ASSOCIATION OF REAL ESTATE BROKERS, BALTIMORE, MARYLAND; AND DR. BOOKER T. MCGRAW, CONSULTANT TO THE NATIONAL ASSOCIATION OF REAL ESTATE BROKERS, WASHINGTON, D. C.

VICE CHAIRMAN HORN. Mr. Powell?

MR. POWELL. To begin with the gentleman closest to the rostrum, will each of you please state your name, address, and position with the organization you represent?

MR. PONTIUS. My name is H. Jackson Pontius, executive vice president of the National Association of Real Estate Boards. I am here on behalf and in the absence of our president, Mr. William "Bill" Brown of Albuquerque, New Mexico.

MR. POWELL. Mr. Chairman, we have a statement that was presented by Mr. Pontius together with a handbook of the California Real Estate Association. We also have a statement by the National Association of Real Estate Brokers. At this point may I have these statements entered into the record?

VICE CHAIRMAN HORN. Without objection, they will be inserted in the record at this point.

(Whereupon, the documents referred to were marked Exhibits No. 20-21 and received in evidence.)

MR. POWELL. Mr. Spaulding?

MR. SPAULDING. My name is Daniel W. Spaulding from Baltimore, Maryland. I am chairman of the public affairs committee of the National Association of Real Estate Brokers—Realtists.

VICE CHAIRMAN HORN. Dr. McGraw has not been identified.

DR. MCGRAW. My name is B. T. McGraw, and I serve as consultant to the National Association of Real Estate Brokers.

MR. POWELL. Mr. Pontius, would you tell us what the composition of your organization is?

MR. PONTIUS. The National Association of Real Estate Boards maintains its headquarters in Chicago, Illinois. We have 95,000 Realtor members representing approximately 500,000 licensees throughout the United States.

The association comprises approximately 1,600 member real estate boards in communities throughout the entire Nation, 50 State associations.

Within the structure of the National Association of Real Estate Boards we also have nine councils or societies, institutes, representing appraisal, management, general brokerage, and various other specialized areas of the real estate business.

MR. POWELL. Mr. Spaulding, would you tell us who constitutes the

membership of your organization?

MR. SPAULDING. Our membership is constituted by licensed real estate brokers throughout the United States who have their boards in the respective States. We have several affiliated associations connected with the Real Estate Brokers Association, such as we have an appraisal society, we have a management department, and also we have a financing department.

MR. POWELL. Mr. Spaulding, why was it necessary to create a separate organization of black brokers?

MR. SPAULDING. It was necessary to form such an association approximately 25 years ago because of denial by the Realtors to permit us to become a member of their association.

MR. POWELL. Black brokers are known as Realtists, are they?

MR. SPAULDING. They are known as Realtists.

MR. POWELL. And the white brokers are known as Realtors?

MR. SPAULDING. That is correct.*

MR. POWELL. Mr. Spaulding, how do you explain the fact that most suburban communities are segregated?

MR. SPAULDING. Most of the suburban communities are segregated because of the fact that the black community has not had the opportunity of freedom to buy in localities of their choice.

MR. POWELL. Mr. Pontius, would you care to comment on that?

MR. PONTIUS. I would have to question the fact that the individuals do not have the freedom to buy of their choice. My experience has been principally in California until last August at which time I joined the National Association of Real Estate Boards. I have observed in the State of California and in the many areas I have had an opportunity to visit in a very short period of time that the Realtors are always willing to show properties and make them available to anyone who is qualified to purchase, and I'm aware of many people who have been able to buy these properties in virtually any community in the country.

MR. POWELL. Well, I would take it that segregation in the suburbs to the extent that it exists was a development that occurred over some period of time. Tell me, isn't it true that at one time the National Association of Real Estate Boards had a policy which required its members, on the pain of being in violation of the Code of Ethics, to discriminate against black home purchasers who were attempting to buy in white areas? Is that true? Was that your policy at one time until about 1950—in the early 1950's?

MR. PONTIUS. No, not until 1950. I would say there was a time that there was a question about introducing elements unfavorable to a community. But I know of no one that was ever expelled from the asso-

* The following clarification was received from the National Association of Real Estate Boards: "The National Association of Real Estate Brokers is basically made up of black brokers and known as Realtists. The National Association of Real Estate Boards is made up of predominantly white brokers but there are many Negro Realtors that also belong to this Association."

Letter from H. Jackson Pontius, Executive Vice President, National Association of Real Estate Boards to John H. Powell, Jr., General Counsel, U.S. Commission on Civil Rights, July 22, 1971

ciation for—expelling somebody from the association.

MR. POWELL. Well, let me—

MR. PONTIUS. The Code of Ethics was amended approximately the date that you refer to. I believe that was Article 5 of our Code of Ethics that now reads:

“The Realtor should not be instrumental in introducing into a neighborhood a character of property or use which will clearly be detrimental to property values in that neighborhood.”

And it has been made very clear to our members that no one is to discriminate—

MR. POWELL. Well, may I ask you something, Mr. Pontius? Don't you think that article, that provision, is rather vague? The Realtor should not be instrumental in introducing into a neighborhood a character of property or use—what does that mean?—which will clearly be detrimental to property values in that neighborhood?

MR. PONTIUS. If a Realtor is aware that someone is going to introduce into a neighborhood a machine shop, for example, in the back yard of a property that is not zoned for that, that is certainly detrimental to the area.

MR. POWELL. I see. I see. Well, let's take a look at the earlier version that that is meant to replace, and let's examine that version.

MR. PONTIUS. Mr. Chairman,—

MR. POWELL. Let me read that to you:

“A Realtor should never be instrumental in introducing to a neighborhood, by character of property or occupancy, a member of any race or nationality or any individual whose presence will clearly be detrimental to property values in the neighborhood.”

Mr. Pontius, I ask you whether or not you don't think that your present code in terms of its language suggests that your policy isn't really too different? Don't you think you need to make it a little clearer what you mean in your current code?

MR. PONTIUS. Well,—

MR. POWELL. Isn't this language I just quoted the provision which requires your members to discriminate against blacks attempting to buy in white communities?

MR. PONTIUS. No, sir. Well, pardon me. Perhaps I misunderstood your question.

MR. POWELL. Isn't the language which I just quoted, talking about—

MR. PONTIUS. The language—

MR. POWELL. —“member of any race or nationality or individual whose presence will clearly be detrimental to property values in the neighborhood”—isn't that the provision which requires your members to discriminate against blacks attempting to buy in white neighborhoods?

MR. PONTIUS. We do not condone anyone being prejudiced against blacks or any other ethnic group whatsoever.

MR. POWELL. Wouldn't it have been a violation of the code—

MR. PONTIUS. Mr. Powell, you have referred to a statement that is a

passee statement, some years old, and it was amended by the National Association of Real Estate Boards long before Congress or anyone else was concerned with the Civil Rights Act.

MR. POWELL. Well, you—

MR. PONTIUS. And I would say that we uphold the Civil Rights Act, and I would like to take this opportunity, if I may, sir, to comment about the membership of the association.

Mr. Spaulding, it is true apparently there was a time in some areas where Negroes were not able to join a local real estate board. I know of areas where Negroes were able to have joined member boards long before 1945, which was the approximate date that the National Association of Real Estate Brokers was organized.

And this created a problem as I understand it in the Southern States. And at that time some of the people in the Southern States came to the National Association of Real Estate Boards and they asked my predecessor once removed, Herbert U. Nelson, a very fine gentleman, if he would assist in organizing an Association of Real Estate Brokers in the area of Negro communities.

We did. In fact, the National Association of Real Estate Brokers was assisted by our organization. The term "Realtist" was a suggestion that came as a result of this conference.

And I would say that as far as we are concerned the National Association of Real Estate Boards in the communities throughout the country welcome anyone, and we have a good many and have had for many years, many, many Negro members, and they are contributing well to their communities and they are contributing well to our association.

MR. POWELL. Turning, you say that your provision that I quoted earlier is passé. But it is true, isn't it, that the practices of real estate brokers under that provision contributed to the present patterns of racial segregation in our metropolitan areas? Wouldn't you agree? The President himself has recognized that in his statement. Do you differ with that?

MR. PONTIUS. I can't argue that point.

MR. POWELL. All right. Don't you feel that if that is the case that you have, that your members and your organizations have an obligation to take affirmative steps to change those patterns to which your practices have contributed?

MR. PONTIUS. I don't think there is any question but what the leadership of the National Association of Real Estate Boards is doing all they can and will continue to do all they can to cooperate in making housing available for anyone.

MR. POWELL. Tell me, Mr. Pontius. In 1968 did your organization oppose the enactment of Title VIII of the Civil Rights Act?

MR. PONTIUS. Yes, we did.

MR. POWELL. Now that it is the law of the land, do you support that provision?

MR. PONTIUS. We support that provision.

MR. POWELL. Do you—

MR. PONTIUS. In fact, I may say that a good many of our member

boards throughout the Nation are even going so far as to conduct what they call equal rights committees and a code of practices to educate their members and their salesmen as to their obligation and to be sure that that responsibility is fulfilled.

And, incidentally, we opposed the law not on the basis of the law itself but because of some of the related factors that were in it, just as I opposed at one time the Rumford Act in California because we felt that some of the concepts of the Rumford Act were improper.

MR. POWELL. Mr. Pontius, your 1971 statement of policy urges a rededication, and I quote, "to the observance of law with emphasis on strengthening law enforcement." The law which you are in an excellent position to support is Title VIII of the Civil Rights Act. Why haven't you urged strengthening of law enforcement in this area?

MR. PONTIUS. The statement that you refer to includes that section as well.

MR. POWELL. Tell me, what efforts does your organization take to police your present Code of Ethics which relates to discrimination with respect to blacks attempting to buy in white areas? Do you police the activities of your members in this regard?

MR. PONTIUS. The structure of the association is made up, as I mentioned earlier, of local real estate boards. The only people that can really take—can actually take action against a licensee or a member is the local real estate boards. We have encouraged the local boards to set up equal rights committees. We have encouraged them to see that the 1968 Civil Rights Act is complied with.

We have publicized on several occasions in this manner— Here's a copy of the quarterly magazine section of Headlines, which is our weekly publication that goes out to approximately 100,000 members, in which we have: "The press, the public, open occupancy laws, and the board of Realtors."

MR. POWELL. Well, Mr.—

MR. PONTIUS. It explains in there the obligation. And we have a number of publications that I have not included in the pamphlet that has been given to you there that this Commission should have that sets forth the inequitable limitations that the association does not condone, and among that it clarifies the position of the Realtor with reference to his servicing minority groups and the public as a whole.

Now, the national association, if they find that a board is refusing to perform in this area, we can revoke their charter.

MR. POWELL. Have you ever done that?

MR. PONTIUS. We have not had occasion to do it.

MR. POWELL. Despite all of the indications, despite all the actions that the Attorney General has seen fit to bring against brokers in areas like St. Louis?

MR. PONTIUS. In the St. Louis case— I'm glad you mentioned that. In the case of St. Louis there were four members down there who—

MR. POWELL. Did you revoke the charters in St. Louis?

MR. PONTIUS. The St. Louis case is not settled yet. In fact, the St. Louis Board was not involved. You had four individual members in St.

Louis who were involved. And in the case with St. Louis, those four members, they were submitted a proposed consent decree.

I took it upon myself to inquire about one of the cases particularly and found that the party involved had 12 complaints. He indicated that of the 12 he knew that nine of them were probably improper and questioned their validity. Three of them he said: "I would question the sincerity of my salesman."

As a result they did file a consent decree and the Department of Justice asked that a procedure be established. It would recommend to the membership some form of action.

I talked to the St. Louis Board and they have included in the consent a proposal that a code of practices be established and that in addition to the code of practices which is included in the little pamphlet that you have here— And they have gone further and said that each associate or salesman member of the Real Estate Board of Metropolitan St. Louis shall be required to file with the board a signed membership card and that will be retained in the board offices and the board will take action should there be further complaints on that.

I don't know the final disposition of this subject and I would question to what extent I should discuss it.

MR. POWELL. Let's turn to something else. With regard to the effects of past discrimination—

MR. PONTIUS. Effects of what?

MR. POWELL. The effects of past discrimination. You have agreed that the members of your organization are in some respects responsible for the current segregation in our metropolitan areas. Do you think that Realtors—

MR. PONTIUS. May I clarify that, sir? I think that you have to keep in mind that in the past when a real estate broker sold a piece of property to someone he was also in the position to service the individual, whether it was a buyer or a seller, as to what their needs may have been, and I think that the brokers over the past years acquiesced to what the public wanted, both the buyer and the seller.

Now, I think that the laws you have, the 1968 Civil Rights Act, takes care of everyone and that puts everyone on an even keel. There is no question about everyone having to perform now.

MR. POWELL. In view of the fact that you do have present effects of past discrimination, do you think that Realtors have an obligation to engage in affirmative marketing to minorities to overcome the effects of past discrimination?

MR. PONTIUS. I'm sorry. Could you repeat yourself?

MR. POWELL. Do you think that Realtors have an obligation to engage in affirmative marketing to overcome the present effects of past discrimination?

MR. PONTIUS. I think that the brokers are doing that, and I think that the National Association of Real Estate Boards and its leaders are concerned with setting up committees throughout the country that will do that, and I think that there is evidence throughout the Nation that this is being done.

Right near by—this gentleman is from Baltimore. I think you are aware of the Baltimore Plan and the Baltimore Board's activities in attempting to work with the people in the community. And they are even sponsoring a series of radio shorts explaining the importance of—or the fact that housing should be available to all people in all communities.

I believe that the pamphlet that I left with you there also contains a copy of that folder.

MR. POWELL. Mr. Spaulding, you are familiar with HUD's proposed guidelines on discriminatory advertising?

MR. SPAULDING. Yes, I am.

MR. POWELL. Do you approve of these guidelines?

MR. SPAULDING. They are all right as far as they go. But they have not covered some of the principles which HUD has— HUD has missed out on some of the principles as far as their administration policies are concerned. It's all right for a piecemeal effect, but it's not comprehensive enough.

MR. POWELL. I see. Mr. Spaulding, do you feel that builders and brokers who sell federally subsidized housing should be required to advertise their property and sell without discrimination?

MR. SPAULDING. They should.

MR. POWELL. Would you care to comment on that, Mr. Pontius?

MR. PONTIUS. I'd like to comment on the HUD advertising proposal. I think there are several sections in the proposal that could be detrimental to the purpose of selling to all people.

For example, in one instance they say that everyone must use a logo that housing is available to all people. I think if someone doesn't use a logo, then that is an indication it isn't available, and I don't think you should have to go that far. The law says that it's supposed to be available, and it should be available. There shouldn't be any question about it.

MR. POWELL. Well, in light of the code words used to signal to whites that this was a white community and the practices used to signal to blacks that this was a black community, don't you think that would overcome those effects?

MR. PONTIUS. If you know code words you know something about our business that I don't know, sir.

MR. POWELL. Well, wouldn't you say if everyone followed the guidelines there would— Should there be a requirement that everyone follow the guidelines? Wouldn't that rectify the problem you mentioned?

MR. PONTIUS. I think in view of the 1968 Civil Rights Act we have to assume that everybody has to live with that act. I don't think it's necessary to spend the money to say that we support the act.

MR. POWELL. The President talked about programs that were result-oriented. Do you think we can assume the law is being followed?

MR. PONTIUS. I'm sorry. I couldn't hear you.

MR. POWELL. Do you think we can just assume that the law is going to be followed without having programs that are going to be result-oriented?

MR. PONTIUS. No, I didn't say that, sir. I just said I didn't think the logo would help the situation. I do think that we all have to work at the problem. There isn't any question about it. I think that there are many, many people who want to be helpful in this field and there are some people that have to be further educated. And I think the Realtors are willing to help educate them. But I think this is a two-edged operation here.

I think as far as we're concerned, for example, we'd like to do a lot of work throughout the country. It takes money to do this. We can't do it just on the strength of the membership dues. The National Association of Real Estate Boards has inquired for help from some of these national foundations, and the national foundations have taken the attitude that it's all our fault in the first place "so why should we help you?"

I don't think that's going to help anyone in the future. And I wouldn't say that what happened in the past was necessarily all our fault. But we're living in a different world today and I think the people in the real estate business understand this. I think we all should understand it.

MR. POWELL. Mr. Spaulding, what has been your experience with VA and FHA with regard to their referring repossessed housing to black Realtists? Do they refer black Realtists to all of their housing or just to homes in black areas?

MR. SPAULDING. Now, that is a question I cannot answer. It has given me some concern, and I am going to make an investigation of it.

My only observation is that the list which comes to me from both the FHA and the VA does not normally have houses where I think they should be. So I am going to make an investigation of that because I don't think the list is inclusive, but that's not factual.

MR. POWELL. Dr. McGraw, do you have any information on that point?

DR. MCGRAW. On the VA? No, I do not have.

MR. POWELL. Mr. Spaulding,—

DR. MCGRAW. Except I would assess the situation as good, bad, and indifferent. It depends very largely on the caliber of VA director in the localities, the extent to which he pursues this thing. And so I think you would have to say in some localities it works pretty good and others it doesn't work too well.

MR. POWELL. Either Mr. Spaulding or Dr. McGraw, what has been your experience with getting mortgage financing for black people in the suburbs?

MR. SPAULDING. I think getting mortgage financing in the suburbs has as a rule been rather difficult, more so— Well, that's the suburbs.

MR. POWELL. Could VA or FHA do anything to improve this situation?

MR. SPAULDING. I think they could do something to improve the situation if an individual bought under that particular program. I feel that force could be brought against the lending institutions themselves. That is, if a lending institution discriminates in financing, I think their insurance should be removed immediately.

MR. POWELL. Could you tell us anything about the mechanism which banks and other lending institutions use to deny black people credit?

MR. SPAULDING. Oh, yes, there are various and devious means of denying credit. First, there is a credit criteria. They do not meet the credit requirements.

Secondly, particularly in the ghetto areas, they have various deceptive devices. In fact, it's practically impossible now to get financing in the inner-city *per se*.

As one instance, we did make a survey for your Commission relative to financing in the inner-city, and this investigation was made by our brokers throughout the United States. And credit criteria was one of the most offensive.

Secondly, they wanted to know how old the house was. And as you and I know, most of the houses in these old areas are 50 years plus. So they do not take mortgages for houses in excess of 20 years old. That's No. 2.

And No. 3, are you a depositor with us?

And No. 4, the term of years, very limited, usually 10—that is, if you can get it.

And normally the amount of money, mortgage money, which can be obtained is much lesser than that which is required, whereas if a white individual buying the same particular property through our experience, they generally will grant them a two-thirds percentage mortgage of the appraised value.

Those are just a few of our experiences, and we are documenting those and will present them to you very shortly.

MR. POWELL. Thank you. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Mrs. Freeman?

COMMISSIONER FREEMAN. Dr. McGraw, it's good to see you. I would like to say to my fellow Commissioners that Dr. Booker T. McGraw is probably one of the best known experts on housing and the struggle to achieve equality of opportunity in housing in this country.

You were employed by first, I suppose, the Housing and Finance Agency, the Public Housing Administration, over a period of years. And I wonder, Dr. McGraw, since you have retired and left what we call the Federal establishment, if you would comment, if you would indicate some of your thinking to this Commission about the obligations of the Federal Government as you perceive them now as compared with what was happening over the some 20 or 25 years that you were employed in housing?

DR. MCGRAW. Well, I would have to agree with the conclusion of your own Commission that there seems to be some slippage here, if not a full-dress retreat, so far as civil rights are concerned.

I think this was very well reflected in the White House statement Friday, in my judgment. I think it's about as easy to separate the economic discrimination and discrimination among minorities who have been circumscribed and disadvantaged so that they are heavily concen-

trated among the lower-income groups as it is to unscramble eggs. I think it's wholly unrealistic. It's a nice way to avoid carrying out your responsibilities to really open up this society so that all members of the public will have the same option to live in every type of location and access to housing within its means in such locations as now enjoyed by other people.

And you can't do this if you are going to try to separate economic discrimination from racial discrimination or discrimination on the basis of race or other attributes.

Because it simply means that there will be nothing in the suburbs that people lower on the totem pole can have access to if you rule out building low- and moderate- income housing.

The question is not one of forced integration. You're not forcing anybody to integrate. I don't think anybody can force me to integrate with anybody. I'm not being forced to integrate when I live in a hotel room next to somebody or ride on the street car next to somebody.

Because I have the same access as other people to the activity and the facilities provided with funds and assistance provided by all members of the public, it seems to me these funds should not be used in any instance where they will not benefit all the people.

And I just can't— This announcement was very distressing to one who has labored in the vineyard—and now we have all kinds of tools and more recognition of the real elements of the problem today than ever before—for an Administration to be moving backward it seems to me.

We were doing better when we had to make bricks without straw on this front. We didn't have 235 or 236. We didn't have any civil rights laws in this field.

Of course, if we lived up to the Constitution, we wouldn't need any civil rights laws. It's all inherent in the Constitution. These civil rights laws are merely trying to provide some machinery for implementing the basic ideals and thrust of the Constitution, it seems to me, and it seems to me the statement issued by the White House was a great deal of sophistry. I don't know what motivated it. I wouldn't presume to try to read people's motives.

But it's certainly a disappointment and frustrating and distressing to those of us who have been laboring in this vineyard for a number of years.

I don't know whether this is fully responsive to your question, Mrs. Freeman, or not.

COMMISSIONER FREEMAN. Would you have any specific recommendations as to the kinds of programs that ought to be in effect to achieve what we are seeking?

DR. MCGRAW. We have tried to address ourselves in the paper prepared for this Commission. I think some of them you will find something in there on this.

The first thing, I would like to see that the funds already appropriated by the Congress to support these programs in housing and urban development be released and not impounded. We have got over a bil-

lion dollars of housing and urban development funds which the White House has not permitted to be spent. Most of it is in sewer and water grants. I can give you the figures.

About two hundred— What page is that on? \$200 million in urban renewal funds. \$192 million public housing. \$200 million in water and sewer grants. Model Cities \$575 million plus another \$157 million.

Now, these are funds being impounded by the White House. It has already been appropriated to be spent in fiscal 1971. And these funds are not impounded because there is not a need, because the need is urgent, and the applications are piled up there. This is thwarting the will of the Congress.

Now, anybody familiar with the obstacle race you have to go to get some funding from the Congress— Well, it's almost impossible to say what I think about this. For example, I'd like to point out that legislative committees of Congress are not in the habit of being excessive in authorizing the funding of programs approved by the Congress, enacted by the Congress.

Then comes the executive department, and it usually asks the appropriation committee for less than is authorized.

It goes to the White House and then it's cut back. And then it goes to the appropriation committee, and the appropriation committee never gives you what you ask for.

Then, once the appropriation committee makes the appropriation, then to have some \$10 to \$12 billion for all the executive departments be impounded by the White House I think is unconscionable.

And about \$1.3 million HUD funds.

Now, another thing I would briefly point out. I think just as HUD would not think of handing a builder some guidelines regarding architecture and telling him to go ahead and build a building and if there's any complaints "we'll see whether you lived up to the guideline criteria"— This is what we do in civil rights, in equal opportunity, in fair housing. We don't sit down with the applicant and have him come in with a statement of what he is going to do, a plan, just as he comes in with his architectural plans, what kind of structure, and showing that the structure meets HUD's criteria.

Now, I submit that a human being and human values are more important than a building, the architecture of a building. But this is the way we play it.

There's no reason in the world why we could not sit down with every applicant for HUD funds and have him come in with a satisfactory list of positive steps he is going to take to implement the requirements of equal opportunity and fair housing, and then hold him to that and monitor his activities from his initial planning through the occupancy and operation of the housing and see that he lives up to the plan that he brought in and said he would implement. Then we would get some things going on this front.

But when it comes to the human side of the equation, we don't screen that. We don't follow up on that to the same extent we do with respect to the physical aspects of housing.

And what is more important? All of this innovation by the Government is for the purpose of improving the viability of people, the self-development of people, so that people will be able to live and enhance their quality of life.

We can never solve these problems until we adjust the human considerations equally with the physical considerations.

COMMISSIONER FREEMAN. Thank you.

DR. MCGRAW. I think those two things will give you the tenor of how I would approach this if given the opportunity.

Now, I would like to say that I haven't been able to get previous Administrations to buy this type of bill either, but they were all further on the way than the present Administration seems to be. The present Administration even in its statement admitted that they are pulling back from what previous Administrations had done on this in opening up suburbs.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. Mr. Spaulding, you are active now as a real estate agent or Realist in Baltimore?

MR. SPAULDING. Yes, I am a licensed real estate broker.

COMMISSIONER MITCHELL. Could you join Mr. Pontius' association?

MR. SPAULDING. Not until about 10 years ago. I did make an application but was flatly refused.

COMMISSIONER MITCHELL. But you now could join?

MR. SPAULDING. I could join with a sponsor, but I haven't had any inclination to join although about six or seven brokers of our local association did join.

COMMISSIONER MITCHELL. Dr. McGraw, are you saying that the Secretary of HUD is exerting less than the amount of effort he should be exerting in behalf of the solution of this situation?

DR. MCGRAW. No, I'm saying he is not— He's being prevented from exerting what he ought to do. I think he would exert more himself.

When you get a chance to examine my paper, I think we tried to make clear some voices by the Secretary in 1969 and 1970 about opening the suburbs and plotting suburbs to include low-and moderate-income housing so that these people who were dammed up, unemployed and underemployed, in the city, can go out and occupy these lower-skilled jobs which are growing in the suburbs and going begging out there because they can't live out there and the transportation is too costly and time-consuming for them to get out there.

And many of the development supermarkets are having an atrocious time getting low-paid help out there to man those facilities.

COMMISSIONER MITCHELL. Thank you.

DR. MCGRAW. I'm sure that Mr. Romney would be much further along if he were permitted.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. No questions.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. Mr. Pontius, you stated that the National Association has encouraged local boards to set up equal rights commit-

tees? Is that correct?

MR. PONTIUS. That's correct, sir.

COMMISSIONER RUIZ. What do the records show as to the extent equal rights committees have been set up?

MR. PONTIUS. Well, the principal location is in California where they have done a very excellent job as I expressed earlier.

I have not had an opportunity since I have been with the National Association in the last 6 months to make a survey to determine just what has been done, but I would certainly hope that we would, because we are interested to know just how many of them have and what they are doing about it.

COMMISSIONER RUIZ. Can you submit by letter form to this Commission any statistical computation of States and places where equal rights committees have been set up or your goals in that respect?

MR. PONTIUS. Yes. In fact, that is included in the kit that I have given to you to some extent, and also my testimony that is included in that kit refers to it.

Frankly, I have a recommendation on that line that I have included in that statement which refers to a visual aids program that I believe you people are considering, and I would certainly encourage that.

I have had two films that have been left with your staff here, one developed by the California Real Estate Association for the purpose of showing people what can be done, how minorities have been able to locate, what the acceptance has been in the neighborhoods, and so on.

The film, incidentally, was prepared by Universal Studios and was not edited by the Realtors. It was done independently of the Realtors themselves.

There is another film, however, that is available to you people that was not developed by our association but I think it's one of the finest pieces of work that I have seen anyplace in the country, that depicts what can be done with existing housing and rehabilitation housing, which certainly falls under the 235 program and some of the other subsidized programs of the Federal Government.

This is a program created by Community Pride in Los Angeles—in fact, the Watts area of Los Angeles. The title of the film is "New Fires in Watts".

The film itself is a little misleading to some extent, but when you see the film you can understand that it is an exciting title, and it does show that there is tremendous new construction in the area.

Unfortunately, Community Pride, a group of people who were rehabilitating the properties, as I understand it, have gone defunct.

COMMISSIONER RUIZ. Is your organization—

MR. PONTIUS. This is something I think we should encourage. You people should. We should. I think the National Association of Real Estate Brokers should. And we should certainly work with HUD to see that that approach is advanced.

COMMISSIONER RUIZ. Is your organization willing to help in distributing such educational films as may be available or which the Civil Rights Commission may film?

MR. PONTIUS. Yes. If you had any films available, we'd be pleased to see that they were distributed to our boards and encourage the local boards to show them to various service clubs.

COMMISSIONER RUIZ. Now, you have an equal rights handbook. Has it been put into evidence here? Has it been submitted and given an exhibit number?

MR. PONTIUS. Yes, sir. It has not been given an exhibit number. It is just an exhibit.

VICE CHAIRMAN HORN. It has been entered into the record.

COMMISSIONER RUIZ. One more question. Since the National Real Estate Boards support Title VIII and originally, apparently from what has been stated, blacks were not permitted to become a member of National Real Estate Boards, why can't the real estate boards and the real estate brokers join forces on issues wherein their viewpoint may coincide?

MR. PONTIUS. They can. And I'd like to correct a statement if I may, sir. Negroes may join the National Association of Real Estate Boards, and they have been available to join in various areas throughout the Nation for years. In fact, I know some that have been members for nearly 30 years, and that's long before many of us became involved in this.

If I may, I'd like to also comment on the article that was in our Section 5 that Mr. Powell referred to earlier. You know, up until 1948 the Federal Government permitted racial covenants of one kind or another. Now, where these came from I don't know. I haven't read the history on it. In fact, I haven't been concerned about that history because I don't believe in them.

But I will say that when the Federal Government determined in 1948 that those racial covenants should no longer be advanced, the National Association immediately took steps to change that code of ethics in the association.

COMMISSIONER RUIZ. Don't you believe that if avenues of communication are not only established but kept open that this would prevent misunderstandings from developing between the two organizations?

MR. PONTIUS. Very definitely.

COMMISSIONER RUIZ. And you're willing to do that?

MR. PONTIUS. Well, even to the extent—I don't know whether Mr. Spaulding knows it or not, but I asked if we couldn't be invited to the installation of their national president in Atlanta next August, or September I believe it is. Is it the 12th of August or the 12th of September?

MR. SPAULDING. It commences on the 8th of August.

MR. PONTIUS. We have been invited. I don't know to what extent we can participate, but we'll certainly be there. And I'm looking forward to knowing the executive officers of the National Association of Real Estate Brokers.

COMMISSIONER RUIZ. Thank you very much.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Pontius, Mr. Powell pursued rather vigorously the question of what steps, affirmative steps, need to be taken to

overcome the effects of past discrimination. You are new to your present job but I don't think we can too strongly emphasize what a serious and deep-rooted problem this is.

Just the other day the New York Times quoted a statement by our Chairman, Father Hesburgh, that was made in 1961, 10 years ago, where Father Hesburgh said:

"There are the unspoken but very effective conspiracies of builders, real estate brokers, and good neighbors who are downright arrogant in preserving the blessings of democracy for their own white selves alone."

And just last Thursday this Commission issued a report on the operation of the 235 housing program and in there we concluded a number of things about the actions—

MR. PONTIUS. What page, may I ask?

MR. GLICKSTEIN. Well, beginning on page 47. We concluded a number of things about the actions of real estate brokers. We said that real estate brokers generally operated on the assumption that there were separate housing markets for whites and for blacks. And we said on page 48:

"Thus, the separate housing market for minority buyers as perceived by brokers leads to broker specialization. Most of the real estate brokers interviewed by the Commission's staff identify themselves as serving a specific racial or ethnic group in a racially or ethnically identifiable area."

Elsewhere on that page we said: "Many real estate brokers direct their advertisements toward the racial or ethnic market which they desire to serve."

And on page 461 we said: "In some cases there was evidence to suggest that both builders and brokers used overt discrimination to prevent minority buyers from purchasing houses in predominantly white areas. However, overt discrimination was usually unnecessary, in that the tradition of separate housing markets coupled with the urgent need of uninformed applicants virtually guaranteed a segregated pattern."

Now this tradition of separate housing markets is a very deep tradition that has to be broken if we are going to solve some of the problems we have been speaking about here today and that we considered in St. Louis and in Baltimore. And it does require a very, very affirmative effort to overcome the effects of this past discrimination.

MR. PONTIUS. May I ask what— I haven't had the opportunity to read the report. I do have the book, just received it when I arrived here today. But was that statement by Father Hesburgh made from a survey in New York City or a general survey or—

MR. GLICKSTEIN. I believe that statement was from the Commission's 1961 report on housing which was a national report, covered the country.

MR. PONTIUS. Well, I would say—

MR. GLICKSTEIN. It wasn't just one area.

MR. PONTIUS. The reason I asked the question is I think throughout the Nation I don't think that you would find that to be true. I raise the question about a city like New York or Chicago because I think that

there may be brokers who are living in Italian areas and are living in areas similar to that and they may be specializing in selling to Italians, but that doesn't mean that they are not going to sell to a Negro.

MR. GLICKSTEIN. Well, this report covered St. Louis, Denver, Baltimore, and a fourth city, Philadelphia.

MR. PONTIUS. I respect your comment, sir, and I think it's good that we have this past experience to use as a yardstick, because it certainly gives us a barometer of what progress we're making. But I think that updating of some of these reports is an important factor, too.

MR. GLICKSTEIN. This report is just less than a week old, just a few days old.

MR. PONTIUS. I see.

MR. GLICKSTEIN. The only point of my remark was to substitute for Father Hesburgh, who at this point I think would deliver a sermon of some sort and point out how deep-rooted these problems are and how essential it is to move ahead very vigorously and affirmatively if there is any hope at all of solving them. That's all I have.

VICE CHAIRMAN HORN. Dr. McGraw, you have mentioned the President's statement here. I know it just became available Friday. Have you had the opportunity to read the full text, all 15 pages of the statement? Or are your comments from the press reports?

DR. MCGRAW. I have had a chance to glance through the full statement but I haven't had a chance to really study it.

VICE CHAIRMAN HORN. I see. You are familiar I take it with the statement then on page 2 perhaps when you glanced through it that the President notes: "To qualify for Federal assistance, the law requires the local housing or community development project to be part of a plan that expands the supply of low and moderate income housing in a racially nondiscriminatory way."

And then on page 7 he notes that: "In short, HUD's role in the location of assisted housing is one not of site selection but of ultimate site approval," and goes on to say, "It does not initiate local housing projects."

But then he adds, I think significantly: "With more applications than it can fund, it must select those for funding which it determines most fully satisfy the purposes of the enabling legislation," which on page 2 it has been made clear include the supply of low- and moderate-income housing in a racially nondiscriminatory way.

I just wondered if those comments had caught your eye.

DR. MCGRAW. Oh, yes.

VICE CHAIRMAN HORN. Let me ask you—

DR. MCGRAW. I would like to— May I—

VICE CHAIRMAN HORN. Yes.

DR. MCGRAW. You see, this is what I call sophisticated obfuscation of the situation it seems to me. We don't draw the plans to force a different type of architecture on people, but we insist that whatever the architecture is it meets whatever the criteria are that we have. And we can do the same thing. If we want low- and moderate-income housing diffused in a certain manner, we can have that as a criterion and when

the people come in, have them tell us before we give them any funds how they are going to do this. And this is—

VICE CHAIRMAN HORN. I think this is one of the points, of course, of this hearing—I mean is to find the degree to which the processes of the Federal bureaucracy will carry out the statements of both this Commission and apparently now the Chief Executive, and certainly the courts who had a record perhaps before anybody.

DR. MCGRAW. Yes.

VICE CHAIRMAN HORN. Let me ask you, Mr. Pontius. Your ethics code has been mentioned here several times, and Mr. Powell quoted the recent statement in your ethics code that concerns sort of the replacement for the previous section.

When was that adopted—that section that Mr. Powell referred to? Do you know the year offhand?

MR. PONTIUS. Approximately 1950.

VICE CHAIRMAN HORN. 1950?

MR. PONTIUS. Sometime between 1948 and 1950. It's about the time that the U. S. courts outlawed racial covenants.

VICE CHAIRMAN HORN. Right.

MR. PONTIUS. And, of course, the reason we had it in our Code of Ethics, incidentally, was because there were racial covenants that were recognized by law, and all we were saying by having it in our Code of Ethics was that it was unethical for a real estate broker to violate that law.

VICE CHAIRMAN HORN. That's very interesting. Now, you said that your Code of Ethics really repeated what already was then the law of the land, which in that case were racial covenants. Now the law of the land is the other way around in terms of fair housing, if you will, and yet your Code of Ethics does not really include the law of the land. Do you have a reason why the change in practice?

MR. PONTIUS. We have an interpretation that also says that it is unethical and it is inequitable limitation for a member board to deny membership to anyone because of race, color, or creed or for an individual to deny service to anyone because of race, color, creed, religion, or national origin.

VICE CHAIRMAN HORN. That's in the Code of Ethics now?

MR. PONTIUS. Yes. It's in the interpretation.

VICE CHAIRMAN HORN. In the interpretation but not in the code itself?

MR. PONTIUS. Right.

VICE CHAIRMAN HORN. Is there any plan by the board in one of their annual conventions to perhaps tighten up the Code of Ethics?

MR. PONTIUS. The entire Code of Ethics is subject to review.

VICE CHAIRMAN HORN. I see.

MR. PONTIUS. In fact, we have several other items that should be considered.

VICE CHAIRMAN HORN. Now, this question was stressed a little bit earlier but I'd like to proceed and develop a point here.

Just how do you know in any area that is covered by your Code of

Ethics as to whether or not ethical standards are being followed by both your member boards and their members in turn? Do you have any sort of system where the national group checks up— this has nothing to do with the civil rights aspect of this, but I am just curious. How do you know your Code of Ethics is even being followed in any area?

MR. PONTIUS. Well, as far as membership is concerned, for example, we have never taken an inventory of our minority members. We have felt that to do that would be discriminatory in itself.

VICE CHAIRMAN HORN. I'm not really asking that, I'm asking any aspect of that Code of Ethics, how do you know that Realtors around the country—and let's forget the civil rights aspect right now. The non-civil rights aspects of your Code of Ethics. How do you know they are being carried out in an ethical way by your members?

MR. PONTIUS. Well, if a member applies to the highest tribunal within the board— And there are various committees. We have a professional standards committee. We have arbitration committees. We have membership committees who are continually carrying on indoctrination programs of one kind or another to educate the members as to their rights under the Code of Ethics and the bylaws and the rules and regulations of the boards. And if any member finds that he has been adversely treated or has not had an opportunity to present his case, that he then has an opportunity to refer it to the state association and he can bring it to the national association if necessary. We have had cases that have come to the national association.

VICE CHAIRMAN HORN. All right. So as I understand it, your cases come about essentially in two ways. Either another member of your board brings a charge about a rival's, shall we say, misconduct, or an individual complaint perhaps from a prospective purchaser of a house—

MR. PONTIUS. Correct.

VICE CHAIRMAN HORN. —or rental of an apartment. So you really don't have any testing that you undertake as a national board nor do local boards have this where you go around and just check up on the degree to which members are following your own Code of Ethics? You really have no enforcement program of your own in terms of ethical standards?

MR. PONTIUS. Only to the point that they come to our attention. Now many of these things, of course, are supported by the real estate laws throughout the country and we do support the fair employment practices commissions and the real estate commissions in the various States. And wherever they have any activities they have their deputies out checking. And, of course, in many instances, if there is a complaint, it may be a violation of law.

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. If it's not a violation of law, however, most of the real estate commissions will report this back to the state association or the local real estate board, and they in turn can take action.

VICE CHAIRMAN HORN. Okay. So then another source of complaint is an action of the State real estate commission who licenses the bro-

kers in the State?

MR. PONTIUS. That's correct.

VICE CHAIRMAN HORN. And I think we heard testimony in our Baltimore hearing that they had one member—am I correct?—in the Maryland State Real Estate Commission to enforce the law statewide for real estate brokers.

Is there any move underfoot or do you personally think it would be a good idea to have some sort of responsibility for testing ethics whether it's civil rights or not as it pertains to real estate by your own organization?

MR. PONTIUS. Well, we have a number of education programs now that we try to update people, but as you raise the question the thought has been going through my mind as to how you could mechanically set this up so that you would establish a program.

I think it's a good question. I certainly would like to pursue it further. But I honestly think at this moment—

VICE CHAIRMAN HORN. All right. Let me ask you now about the State's role in licensing real estate brokers. Are there courses required in most States to be a real estate broker and to secure a license by the State?

MR. PONTIUS. The majority of the States do now, yes.

VICE CHAIRMAN HORN. In other words, do you have to take certain courses or do you merely pass a test?

MR. PONTIUS. No, you are supposed to take the courses. However, if you are capable of passing the examination without taking the course, you should be permitted to do so. The statutes don't all read that way but—

VICE CHAIRMAN HORN. As the National Association of Real Estate Boards you really have nothing to do with individual licensing, do you?

MR. PONTIUS. No.

VICE CHAIRMAN HORN. You merely grant a charter to a local board?

MR. PONTIUS. That's correct.

VICE CHAIRMAN HORN. Are any of those local charters so that a member can be a member of that local board— Do they require any sort of educational program or continuing education to maintain individual membership in the local board?

MR. PONTIUS. Yes, they do.

VICE CHAIRMAN HORN. All right. Now, if that's true, that both the State and your local boards can require educational programs of their members to maintain themselves as professionals, do you know of any State or any local board that requires as a component that a course or special program be devised on the civil rights aspect of the real estate industry anywhere in the country?

MR. PONTIUS. Yes.

VICE CHAIRMAN HORN. For example, take the analogy of the Federal Government. To be a supervisor right here in the Department of Agriculture you have to go through X number of hours, I think maybe eight to 12, of training in human relations, civil rights matters, etc., before you are permitted to assume a supervisory job. Now, this is true

of many private industries. It's true of other Government agencies.

Has the real estate profession either by your own professional group or the State which licenses you got any sort of program anywhere in the country like this?

MR. PONTIUS. Yes. The real estate— The law advanced as a model law by the National Association of License Law Officials recommends in their State examinations that matters relating to all phases of law be referred to in their examination and that people be required to be tested in those areas, and, of course, that includes the 1968 Civil Rights Act.

Now, how much further they go beyond that I can't tell you because I haven't taken the examination necessarily.

As far as the local boards are concerned, in their indoctrination programs they refer to the responsibility of the broker and the 1968 Civil Rights Act, and they are very cautious to explain to the membership that they can't even— If an individual inquires as to what ethnic stature a buyer may be when they come, that they are not supposed to answer the question. That is against the law, too.

Of course, we find ourselves somewhat confused in this area because while we tell our people that they are not supposed to ask the ethnic structure of anyone, that it's a violation of the law, we turn around and receive from the Department of Veterans Affairs a questionnaire that requires every time you show a property that you ask the question: "Are they Negro or are they Caucasian?"

And our people get mighty confused when we say on one hand you shouldn't do something and the Federal Government comes along on the other hand and enforces a questionnaire of that kind.

VICE CHAIRMAN HORN. You are referring, I take it, to the Veterans Administration?

MR. PONTIUS. Yes.

VICE CHAIRMAN HORN. All right. Let me ask you, are the exams that are given by State licensing agencies a matter of public record or are those questions kept confidential? What's the practice?

MR. PONTIUS. They are confidential prior to their use, and after their use they become public information.

VICE CHAIRMAN HORN. In other words, conceivably the Commission could ask the States to furnish their most recent examination for Realtors, or, rather, brokers, and those should be available to us?

MR. PONTIUS. Yes, they would be available to this Commission, if that's what you are saying.

VICE CHAIRMAN HORN. Yes. Well, I'd like our General Counsel to ask each State to furnish us with a copy of their latest examination for real estate brokers in their State, and I would like to see just how many questions pertain to civil rights matters within that examination.

So can we have that done, Mr. Powell?

MR. POWELL. It will be done, Mr. Chairman.

VICE CHAIRMAN HORN. Now, let me ask you, do you think since we have heard testimony in the 13 years or 14 of this Commission's life in every part of the United States about the discriminatory practices of

individual brokers at the local level— Do you think, given this preponderance of testimony, even though some progress might have been made since the enactment of the 1968 act, that perhaps both the real estate profession and the various State licensing agencies ought to require that as a matter of maintaining one's license or a matter of originally securing one's license that a course be given in the civil rights aspects of real estate and really what is going on in this country in the last few years?

MR. PONTIUS. I don't see why not. As far as the National Association is concerned, we do have a suggested— We encourage the boards to put out an indoctrination course, and, as I mentioned, they ask these questions, and we are now in the process of preparing one. We will review it and see to what extent these questions are asked and see to it that this is covered in that.

VICE CHAIRMAN HORN. Good. Now, to follow up on—

MR. PONTIUS. It is covered now, but we will see to it it's improved if that's what you are asking.

VICE CHAIRMAN HORN. Fine. To follow up on Commissioner Ruiz' query, I would like to just make it sure that we find out if possible how many boards of your members have a civil rights or whatever you want to call it, equal opportunity, committee as one of their official committees at the local level. I would just be curious as a matter of statistics the degree to which this apparent policy which you are encouraging is being carried out by the troops in the field.

And I would also like to ask Mr. Spaulding—this question was mentioned with reference to one local situation, I think Baltimore—about how many Realtists—do we have any information on that?—are also Realtors?

MR. SPAULDING. I don't have the statistical figures on it but they aren't too many.

VICE CHAIRMAN HORN. Well, there is no way to get these figures?

MR. SPAULDING. We can get it for you.

VICE CHAIRMAN HORN. If you could, I think the Commission would be interested.

MR. SPAULDING. Righto.

MR. PONTIUS. Can I comment on that?

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. I know of one particular board where— In Los Angeles there is a board known as the Consolidated Real Estate Board that's a member of Mr. Spaulding's group. I think that group represents someplace in the neighborhood of about 200 Realtists, doesn't it, Mr. Spaulding? Would you recall that? And I would say—

MR. SPAULDING. In excess of 200. They are planning on bringing to the convention about 500.

MR. PONTIUS. I know in that particular board there must be 35 or 40 at least, to my knowledge, who belong to the Southwest Branch of the Los Angeles Realty Board.

Now, I have talked to some of these people saying: "Look, why should we have to have two associations? Why don't we just merge

these two groups?"

And I get the comment that: "We don't know that the Realtists want to merge with us now."

But, nevertheless, they are eligible to join both boards, and that's their prerogative.

VICE CHAIRMAN HORN. Let me just ask one last question here. I think it was mentioned in the St. Louis case—and your point quite properly taken was that that was still under litigation—but I assume there have been court cases in this country, Mr. Glickstein, where they have found that there have been discriminatory patterns and practices with reference to local real estate brokers? Is that correct?

MR. GLICKSTEIN. I would suspect so.

VICE CHAIRMAN HORN. I just wonder. Do you know if anybody has lost their license as a result of the decision in a court case or is the National Association prepared to impose an ethical sanction when a legal sanction has already been imposed? Or do you have any feelings on that?

MR. PONTIUS. Well, if a legal action is taken and they lose their license, naturally they lose their membership in the association.

If legal action is taken and they are not found guilty, the association does not have the power of the courts so we would be in jeopardy if we took further action against such an individual. He'd have grounds for suit against us.

VICE CHAIRMAN HORN. You'd say that's double jeopardy you feel in a way?

MR. PONTIUS. Well, no, I'm not referring to it as double jeopardy. I'm referring to it that the matter— If the fellow went to court and the court rendered a decision and then we would attempt, the committee was to attempt, to take action, that individual would have legal recourse against that committee.

MR. GLICKSTEIN. You could conduct a separate proceeding and reach your own conclusion and there might not be sufficient grounds for a court to find that the law has been violated but there might be sufficient grounds for a real estate board to find that its code of ethics has been violated.

MR. PONTIUS. Yes.

MR. GLICKSTEIN. Different standards of proof.

MR. PONTIUS. We have had— I am aware of several instances where a board has taken action against an individual and reprimanded him to the point that if it occurred again that his membership would be dropped. And it hasn't recurred so—

VICE CHAIRMAN HORN. Has any board, any of your member boards, ever taken action to the point of having the license removed? Or is that within their power to have a member's license removed?

MR. PONTIUS. The only power that a local board has is to suspend a member or curtail his services for a period of time. The licensing agency is the one that controls the license.

VICE CHAIRMAN HORN. When you say suspend or curtail services, you mean as a member of that board? In other words, he really couldn't

practice without membership in that board or what? Or could he still practice?

MR. PONTIUS. Well, he wouldn't receive his multiple listing service, and the courts today have taken the attitude that if a fellow isn't entitled to multiple listing service he isn't able to survive very well in the community, so I would say that it does jeopardize his position to do business very well.

VICE CHAIRMAN HORN. So the main sanction then, the really ultimate sanction you have to enforce any violation of your Code of Ethics, regardless of the civil rights aspect, is to have your local board suspend him so that he can't receive the multiple listing? Is that the main sanction?

MR. PONTIUS. Well, not just the multiple listing. Suspend him from membership in the board. I mentioned multiple listing because that's one of the coveted services that many people appreciate having. It's a direct business asset to him.

But, of course, you also have the integrity of the individual, and there isn't anyone who I know who is a Realtor, member of any organization, that likes to have the public know that he has been suspended for any reason whatsoever.

VICE CHAIRMAN HORN. Do you keep any list at the national level of the major sanctions which have been imposed by member boards? Do you have that in a newsletter or do you keep a record of this?

MR. PONTIUS. Yes.

VICE CHAIRMAN HORN. I wonder if you—

MR. PONTIUS. In fact, we recommend a suggested constitution and bylaws and we recommend various rules and regulations governing services of the board, other activities relating to—

VICE CHAIRMAN HORN. I wonder if you would just mind furnishing for the Commission the list of really the most severe sanctions you have granted in the last year, without mentioning any names, but just the type of sanction imposed and what was the reason for the sanction? What type of things we are talking about?

MR. PONTIUS. Well, I misunderstood your reference to sanction. You are referring to what action we have taken against individuals?

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. And we do not— The National Association cannot take action against the individual.

VICE CHAIRMAN HORN. No, but do you collect the data of the actions taken by local boards?

MR. PONTIUS. No, the local boards collect that data.

VICE CHAIRMAN HORN. So that is solely a matter of the local boards?

MR. PONTIUS. That is correct.

VICE CHAIRMAN HORN. In other words, you don't really know the degree to which sanctions have been imposed on behalf of your national Code of Ethics?

MR. PONTIUS. That is correct.

VICE CHAIRMAN HORN. All right. Let me just say, ladies and gentlemen, we have had the assistance this afternoon of Mr. Michael Walker, a staff attorney in the Office of General Counsel.

Mr. Glickstein?

MR. GLICKSTEIN. I have two items I would like to introduce into the record that Mr. Powell referred to in questioning: the Code of Ethics of the National Association of Real Estate Boards and an excerpt from its pre-1950 Code.

VICE CHAIRMAN HORN. Without objection, those sections will be inserted earlier in the hearing when they were first raised.

(The Code of Ethics appears in Exhibit No. 20. The excerpt from the pre-1950 Code is quoted in its entirety by Mr. Powell at p. .)

VICE CHAIRMAN HORN. Are there any further questions by the members of the Commission?

COMMISSIONER FREEMAN. I didn't hear the introduction into the record of the report of the National Association of Real Estate Brokers.

VICE CHAIRMAN HORN. We, I believe, said we'd be glad to receive it, and, as with other records, it depends really on the size. We'd certainly like to include all of it if possible, but we will include as much as appropriate in the record at the earlier part of the testimony.

(This statement was previously introduced as Exhibit No. 21.)

Let me just say our schedule for tomorrow is we will begin here at 9 o'clock in the morning with Mr. William D. Ruckelshaus, the Administrator of the Environmental Protection Agency. We will conclude tomorrow afternoon's session with Secretary of the Department of Housing and Urban Development George Romney, beginning at 3:55.

This Commission stands in recess until tomorrow morning.

MR. PONTIUS. Mr. Chairman, if I may—

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. I understood that Mr. Glickstein asked that the 1950 Article 5 of the Code of Ethics of the National Association of Real Estate Boards be entered into the record?

VICE CHAIRMAN HORN. He did ask that both the earlier version and the later complete code be included in the record, and it has been inserted at the earlier part of the testimony.

If there are no further questions, the Commission stands in recess until 9 o'clock tomorrow morning.

(Whereupon, at 6:17 p.m. the hearing was recessed, to be reconvened at 9 a.m., Tuesday, June 15, 1971.)

UNITED STATES COMMISSION ON CIVIL RIGHTS

TUESDAY, JUNE 15, 1971

CHAIRMAN HESBURGH. Ladies and gentlemen, may we come to order, please.

Before beginning this morning, I would like to swear in the reporter.

(Whereupon, Miss Nancy Gibson was sworn in as Reporter.)

CHAIRMAN HESBURGH. I'd like to call our first witness of the morning, the Honorable William D. Ruckelshaus, Administrator of the Environmental Protection Agency.

Before you sit down, we'd like to swear you in, and would you introduce your companions, please.

MR. RUCKELSHAUS. Norris Sydnor, the Director of our Office of Equal Opportunity, and Mr. Alex Greene, who is in charge of our grants program from the Environmental Protection Agency.

(Whereupon, Mr. William D. Ruckelshaus, Mr. Norris Sydnor, and Mr. Alexander Greene were sworn by the Chairman and testified as follows:)

**TESTIMONY OF MR. WILLIAM D. RUCKELSHAUS, ADMINISTRATOR;
MR. NORRIS SYDNOR, DIRECTOR, OFFICE OF EQUAL OPPORTUNITY;
AND MR. ALEXANDER GREENE, DIRECTOR OF GRANTS ADMINISTRATION;
ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, D.C.**

CHAIRMAN HESBURGH. Mr. Ruckelshaus, we are delighted that you could come this morning, and we normally would prefer to have something put in the record and then be able to talk informally, if we might. We might be able to cover more ground that way. Would that be agreeable with you?

Mr. Ruckelshaus. Yes, Mr. Chairman. I talked to Mr. Glickstein before we started and I have a draft statement. I would like to submit the statement after the testimony here so that any questions that were not clarified in the questioning period here I could clarify in the statement. This will, I think, make it very clear what our procedures are and what we are doing in an effort to comply with Title VI and Title VIII.

Chairman Hesburgh. Fine, that would be perfectly agreeable with us.

(This Statement appears on p. 1011.)

John Powell, would you begin the questioning?

MR. POWELL. Would you each please state your name and position for the record?

MR. RUCKELSHAUS. I am William D. Ruckelshaus, Administrator of the Environmental Protection Agency.

MR. SYDNOR. I am Norris W. Sydnor, Jr., Director of the Office of Equal Opportunity in the Environmental Protection Agency.

MR. GREENE. I am Alexander J. Greene, the Director of Grants Administration for the Environmental Protection Agency.

MR. POWELL. Your agency, Mr. Ruckelshaus, was created in December of 1970, is that correct?

MR. RUCKELSHAUS. That's correct.

MR. POWELL. Now, as we understand it, your agency's major grant program, at least in monetary terms, is the program for the construction of final sewage treatment facilities through which funds are distributed to municipal, local, and State agencies, is that correct?

MR. RUCKELSHAUS. That's correct, Mr. Powell.

MR. POWELL. And grants for the placement of sewage pipe or connecting lines are made primarily by HUD and not EPA?

MR. RUCKELSHAUS. We have some funds for interceptor sewers but the major lateral sewers and sewers in general are paid for either by HUD or by the local community or by the cooperative agreement between the local community and HUD or the State and local community.

MR. POWELL. Now, with respect to these grants for final sewage treatment facilities, they are allocated to States which meet certain prerequisites according to a distribution formula established by law, is that correct?

MR. RUCKELSHAUS. That's correct.

MR. POWELL. Each State determines the priority among local jurisdictions for the receipt of grants. EPA then reviews each individual proposal to make sure that EPA's requirements are met, is that correct?

MR. RUCKELSHAUS. Yes, that's correct.

MR. POWELL. With respect to these grants, how much money was authorized for this program for this fiscal year?

MR. RUCKELSHAUS. There was a billion dollars appropriated for fiscal year 1971.

MR. POWELL. What is the projected budget for fiscal 1972?

MR. RUCKELSHAUS. The Administration has requested a 100 percent increase or \$2 billion appropriation for fiscal year 1972, and actually, in our authorization bill, we have requested this amount for the next 3 years, so it's a \$6 billion Federal program for the next 3 years.

MR. POWELL. Has EPA adopted regulations to effectuate the purposes of Title VI of the 1964 Civil Rights Act, which prohibits discrimination in federally assisted programs?

MR. RUCKELSHAUS. We do not have any regulations of the Agency as yet but they are being prepared for publication in the Federal Register.

MR. POWELL. As I understand it, you are now using the regulations of the Department of Interior, is that correct?

MR. RUCKELSHAUS. That's right, of the inherited Agency, the Federal Water Quality Administration.

MR. POWELL. But you do plan to adopt Title VI regulations—when was that? How soon do you think these regulations will be adopted?

MR. RUCKELSHAUS. Well, I can't give you an exact date but we are in the process of adopting them and we hope to have them out very shortly.

MR. POWELL. With reference to the Department of Interior Title VI regulations which are currently applicable to sewage treatment facility grants, how does EPA determine whether or not the applicant's sewage treatment project is in violation of Title VI?

MR. RUCKELSHAUS. Well, the grant itself is reviewed in terms of Title VI and if there is a violation there are a number of things which can happen. We have a Form T-128, which I can submit as part of the record if you like, and one of the problems with this form under our present procedure, and one of the reasons for our changing our regulations, is that the form which indicates compliance with Title VI is not submitted to the Agencies or signed by the applicant until after the actual application itself for the construction of the sewage treatment plant is approved; so that it's submitted prior to payment of any money, and we may have—it's certainly possible that we could have as much as 25 percent of the project completed before we recognize there was any violation of Title VI under the present regulations.

MR. POWELL. Will your future regulations provide for getting information before appropriations are made?

MR. RUCKELSHAUS. Yes, they will. That is one of the primary things we are addressing ourselves to in the new regulations.

MR. POWELL. What kind of information is gathered in this Form T-128? Does it require a showing of the racial composition of the community?

MR. RUCKELSHAUS. Yes, it does. It calls for a showing of the minority makeup of the community.

MR. POWELL. Does it provide an analysis to show whether or not the minority population is being equally served by the facility?

MR. RUCKELSHAUS. Yes, it does. It has a section for an explanation of why the sewerage or sewage treatment is not provided for a particular section of the community.

MR. POWELL. Has EPA ever terminated or suspended any sewage treatment facility grant because of the recipient's failure to meet Title VI obligations?

MR. RUCKELSHAUS. In the case of Sealy, Texas, Mr. Powell, there was an application for a grant in which a portion of the community was not sewered. As a matter of fact, that portion of the community was served by an inadequate septic tank system. It was primarily minority, primarily a black community, and prior to the making of the grant itself we requested that the city, and the State also requested, that the city provide a plan for the sewerage of the entire community and it was only after this plan was submitted that we agreed to the grant.

Also, in the case of Boca Raton, Florida, there was a portion—5 percent of the community was minority, was black, and there were no provisions for connecting sewers whose wastes were to be treated by the municipal sewage treatment plant, and through negotiation with that community we were able to see that the 5 percent of the population

that had not had connecting sewers, that the connecting sewers were constructed.

MR. POWELL. In evaluating grants for final sewage treatment facilities, do you coordinate your program with HUD's program for the provision of funds for connecting lines?

MR. RUCKELSHAUS. Yes.

MR. POWELL. If HUD were not to grant funds for a community that was discriminating against minorities, would you follow that lead?

MR. RUCKELSHAUS. We do coordinate our program with HUD and I think it's necessary first of all to understand exactly how our program operates. If the State approves, say, 10 municipal sewage treatment plants of new constructions or additions to existing plants, then the city itself, in making the application to the State also has to have that application approved by the Environmental Protection Agency. We have a provision in our regulations calling for regional plans to be submitted with each application to insure that the wastes of the entire region are being handled pursuant to some kind of plan. If within that region there was a community eligible for HUD's sewer grants and HUD had refused to make those grants because there had not been compliance with some section of the Civil Rights Act, we certainly would cooperate in every way with HUD to insure that the community that had made application to us for a grant was in compliance with the act.

MR. POWELL. Mr. Ruckelshaus, in the President's June 11 statement on Federal policy relative to equal housing opportunity, he stated that: "To qualify for Federal assistance, the law requires that a community development project be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way." How will EPA implement its sewage treatment grant program in light of this requirement?

MR. RUCKELSHAUS. Well, we would implement our sewage treatment plant program, clearly, so as to do whatever we could to insure that this statement by the President, as an interpretation of the Civil Rights Act, was carried out. We are again, I think, in a peculiar position, and I think a comparison between our agency and HUD is relevant to an explanation of that position. We are a regulatory agency, and in making sewage treatment plant grants to communities we are attempting to get those communities into compliance with water quality standards that have been established by State and Federal Government in that particular area. So that there are limitations as a regulatory agency to the kinds of things that we can do to insure compliance with the Civil Rights Act because by withholding funds, for instance, in some cases, it would not be a penalty against that community at all and it would be no incentive for them to go ahead and do what we were asking them to do, because in fact they might consider it a benefit not to have to spend that additional money for the construction of a sewage treatment plant which our matching fund would force them to spend. So that what we have to do is look at each individual situation, each individual case as it arises, and see where we can use what-

ever leverage we might have in the granting of construction funds for sewage treatment plants.

MR. POWELL. Doesn't EPA have the power to obtain injunctions prohibiting communities from polluting interstate waters?

MR. RUCKELSHAUS. Yes, we do. Let me qualify that. We do within certain restrictions. We have to first of all give them a 180-day notice to comply, which was done just recently with several large cities in the country. Then if they refuse to comply, we can then proceed by court order to attempt to get them into compliance.

MR. POWELL. Now, if a community were under such a court order prohibiting pollution, would not a community have a strong incentive to obtain EPA funds to assist it in building sewage treatment facilities?

MR. RUCKELSHAUS. Yes, it would. I would hope that it would.

MR. POWELL. So that you do have some leverage to get communities to follow this requirement?

MR. RUCKELSHAUS. Yes, we do. Now, let me make another explanatory comment. In the past, I mentioned how much money was appropriated for the sewage treatment plant construction program for 1971, Fiscal Year 1971. In the past, the difference between the money authorized for the program and the amount actually appropriated has been tremendous. The program has been woefully underfunded in the past, and the communities around the country, not pursuant to the law itself, but pursuant almost to custom, have assumed that they did not have to go ahead and construct sewage treatment plants unless there were Federal matching funds available for that construction. This has not been what the law said but it has been built into the State-Federal relations and the communities' understanding of what the law was over the last 10 or 15 years. So that really if we are going to expect to have a strong enforcement program against municipalities, there is a necessity to have sufficient funds appropriated that we can come up with the amount of Federal matching funds necessary to meet our obligations which at this point are at a maximum of 55 percent for the construction of those facilities.

With the \$1 billion this year and the \$2 billion we are requesting next fiscal year, we are for the first time really going to have sufficient funds to be able to launch a really vigorous enforcement program. But that is what we are in the process of doing and I think that we will be able to be in a much stronger position now to push communities to do what they are supposed to do under the Water Quality Act than we have in the past.

MR. POWELL. In connection with this requirement for the provision of low- and moderate-income housing, do you intend to issue implementing criteria as HUD has done?

MR. RUCKELSHAUS. I am not sure I understand. Would you repeat that question?

MR. POWELL. In connection with the requirement that the President has mentioned that any community development project be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way, do you intend to issue implementing

criteria as HUD has done?

MR. RUCKELSHAUS. We have no present plans to do that. We obviously have to coordinate our efforts, to insure that the purpose of Title VIII is carried out, very closely with HUD, and to the extent that we can in any way bolster HUD's efforts to insure that Title VIII is carried out, we will do so. The difficulty in trying to adopt an implementing regulation or some kind of guidelines is that the situations vary so greatly from community to community that we have found, at least at this point, that it's almost impossible to generalize about those situations. I could give you several examples of what I mean by the difficulty in saying just what ought to be done.

If you take, for instance, a city like Cleveland, which treats 32 suburban communities, the wastes of 32 suburban communities surrounding the metropolitan area, we can move against the city itself and ask them to construct adequate sewage treatment facilities for all of the areas that they service. The city has very limited authority over the 32 surrounding suburban communities, and if one of these suburban communities were engaged in activities that were in violation of Title VIII or, at least, in the spirit of the Civil Rights Act, we could withhold funds for the construction of the sewage treatment plant, thereby penalizing very greatly the people that live in the city of Cleveland, and maybe only minimally penalizing the people that live in the suburban areas; where in fact what we want to do is insure that one social purpose, the adequate treatment of waste, is achieved, and at the same time achieve another social purpose of integration of the surrounding communities. Our ability to do this through the withholding of funds in the case of Cleveland may be very minimal. Now there are any number of different kinds of situations like that that arise, and attempting to deal with them through the adoption of regulations or implementing guidelines under Title VIII is very difficult to conceive or to conceptualize. That doesn't mean we won't continue to look at our program and look at Title VIII and see if there isn't some way we can adopt implementing regulations that will make it clear what has to be done.

MR. POWELL. In connection with finally issuing the regulations implementing Title VI and Title VIII, has HUD or the Department of Justice ever given you any guidance on this?

MR. RUCKELSHAUS. We have met several times with HUD on this problem. We have just signed, or at least I have just signed, an agreement—I don't know whether it's been signed by HUD yet or not relating to our two sewer programs as to how they are to be administered so as to comply with our regional plan to insure a regionwide treatment of the wastes of all the people in a particular river basin, for instance, and the agreement indicates that they will do everything they can in the administration of their sewer program to insure that it's in compliance with our plan. By the same token, we are in close contact with them in terms of any overall metropolitan plan that may have been funded by HUD to insure that our program is compatible with the purposes of that plan.

MR. POWELL. Has that agreement just been signed in the last couple

of days?

MR. RUCKELSHAUS. Yes. It's an agreement that I am not sure has been signed by HUD as yet. I remember signing it.

MR. POWELL. Does this provide for provision of low-and moderate-income housing as one of the considerations?

MR. RUCKELSHAUS. No. This agreement does not relate to the housing patterns as such. It relates to our overall regional plans for the treatment of the wastes of the people that live within that region, and the necessity of HUD's administration of its sewer program to be compatible with that plan.

MR. POWELL. I have no further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Thank you. Would some of the Commissioners like to question? Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Ruckelshaus, I am not sure I understand exactly how the agency initiates its program. How do you select the city or States, or will you tell us something about how you proceed?

MR. RUCKELSHAUS. Yes. Under the Federal Water Pollution Control Act that was first passed initiating this program in 1956, the Congress has set up a distribution formula for the allocation of sewage treatment plant construction funds. Essentially the funds are distributed on the basis of population throughout the country to the individual States so that if we have a billion dollars, each State will get a portion of that billion dollars based on the number of people living within the State. We are in amendments to the act as a sidelight trying to get that distribution formula changed because the number of people does not necessarily have anything to do with the needs for the treatment of the sewage of a particular State. We want to get the allocation formula based more closely on the needs of the people in the particular State. But that is the way we presently allocate the money. The State then determines which communities within the State, through a formula that they have, are eligible for these funds, and the State then certifies to us which communities are eligible, and the communities make application for the grant or for a portion of that money for the construction of a sewage treatment plant in their particular community. That application is reviewed by the State and is also reviewed by our Agency and, if approved, why then the construction starts and we make the portion of the payments that the Federal Government must under the law.

COMMISSIONER FREEMAN. At this point at which the State indicates to your Agency the communities that it deems to be necessary, what does the Agency do in determining whether the community is eligible or not? Does it make an onsite inspection of the community?

MR. RUCKELSHAUS. No, we have not in the past, and this is another thing we have to start to do. That is another reason why we are rewriting our regulations to insure that before the application is approved we make onsite inspections. We insure that Title VI is complied with. We insure that all the provisions of the Civil Rights Act are complied with in this particular grant. And the way it has been done in the past in the Agencies that we inherited, the real investigation into Title VI and the

Civil Rights provisions wasn't done until after construction was started, in which case there would have to have been a withholding of funds already committed, as opposed to the refusal of the first application.

COMMISSIONER FREEMAN. In response to one of the questions with respect to whether there would be withholding of funds, you indicated that the Agency is a Regulatory Agency, and I got the impression that you considered that being a Regulatory Agency sort of relieved the Agency of its affirmative responsibilities to enforce Title VI, and this is a point that is disturbing to me.

MR. RUCKELSHAUS. No, I certainly don't mean to imply that, and if I gave that implication I misled you. I think we do have an affirmative obligation to insure that Title VI is complied with. My reason for stating that we are a Regulatory Agency was to illustrate that we do have a somewhat different set of problems in attempting to take affirmative action to see that Title VI is complied with. Because, by withholding funds from a particular community ourselves as an ultimate sanction that we could use to insure that Title VI is complied with, we are also contributing, at least arguably contributing, to the fact that the water quality standards are continuing to be violated by that particular community, and even if we were to go into court and get an injunction on the basis that in the historical way that these cases proceed, we are probably talking about a considerable delay in the adequate treatment of the wastes of the citizens of that community and of the upgrading of water quality standards to comply with the law in order to achieve the purposes of the Civil Rights Act. That doesn't mean that we won't do it. But what I am saying is that there are circumstances that can arise where it would seem that our ability to achieve the purposes of the Civil Rights Act flies in the face of our mandate by Congress to insure that water quality standards are complied with. And what we have to do is view each situation on its particular merits and see how capable we are of achieving this dual purpose that our Regulatory Agency might have.

COMMISSIONER FREEMAN. The application which you refer to, I'd like to know if the Commission could have a copy of that application.

MR. RUCKELSHAUS. Yes, certainly.

COMMISSIONER FREEMAN. And particularly we would like to know, in the initial inquiry on that first application for funds, if there are questions that are raised for which answers can be received as to the racial composition of any and every community, and if you could also give for this Commission the names of the communities that have been funded so far for sewage treatment facilities.

MR. RUCKELSHAUS. That's about every community in the country. We can certainly give you that list.

COMMISSIONER FREEMAN. As you know, we have certain areas in which there are large segments of the population that are Mexican American or black that are not receiving these benefits and we, of course, are interested to see whether your Agency has funded any of those.

MR. RUCKELSHAUS. Yes, we certainly will supply that information

to you, Mrs. Freeman.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. Well, just to pursue one point Mrs. Freeman raised, what your Agency does to improve the treatment of sewage and the quality of the environment essentially benefits everyone.

MR. RUCKELSHAUS. That's right.

COMMISSIONER MITCHELL. You are not a civil rights agency. The Government has not established the Environmental Protection Agency for the purpose of imposing sanctions on communities that do not behave themselves with respect to the civil rights circumstances, that's correct, isn't it?

MR. RUCKELSHAUS. Well, that's correct, but I think there is an overall policy in the Civil Rights Act clearly that the Government is to act in as coordinated a way as possible to insure that the purposes of that act are carried out and we are attempting to do that.

COMMISSIONER MITCHELL. Well, I am not suggesting anything else. I am just suggesting that there are Agencies whose primary purpose, regardless of whether they appear before this Commission in matters of civil rights concern, are not civil rights but rights or activities of general benefit to the entire society.

MR. RUCKELSHAUS. That's right.

COMMISSIONER MITCHELL. Indeed, it could well be the case that if you improved the treatment of sewage in a community that was all-white, for example, you would be benefiting communities downstream, if such a situation existed, that were neither white nor subject to your benefits, is that correct?

MR. RUCKELSHAUS. That's entirely correct, and I might say that supposing we had a community that at least arguably was in violation of Title VIII in terms of their housing policies, it might be an all-white community, and we would issue an order against them to take care of their sewage problem, and in the process of that order we would say that the Federal Government will match a certain amount of the funds necessary for the construction of the plant. If we were to—in some instances this is certainly conceivable—say: "Unless you change your housing patterns we will refuse to grant this money," the community may be perfectly willing to say: "All right, we won't accept the grant, and we won't go ahead with the construction of the facilities." We could attempt to enforce the act through the courts but this has certain problems with it. The fact of the matter is that the people who really will suffer from our failure to grant the money may be the very people we are attempting to help who might be downstream, one minority group or another, who will suffer much greater than the people in the community whose sewage is not being treated.

COMMISSIONER MITCHELL. That is precisely my point. It seems to suggest that one must exercise some care in the application of constraints in your Agency lest the results be just the reverse of those that would superficially appear to be most desirable.

MR. RUCKELSHAUS. That is right.

COMMISSIONER MITCHELL. Do you know of any instance in which low- or moderate-income housing has not been built because of any refusal on the part of your Agency to provide funds for sewage treatment facilities or related facilities?

MR. RUCKELSHAUS. I don't know of any.

COMMISSIONER MITCHELL. Thank you very much.

CHAIRMAN HESBURGH. Mr. Ruiz?

COMMISSIONER RUIZ. I have no questions, Father.

CHAIRMAN HESBURGH. Mr. Vice Chairman?

VICE CHAIRMAN HORN. I was interested in your response to both Commissioners Freeman and Mitchell because the problem has been correctly pointed out that you cannot always predict in advance what are the civil rights considerations, and there might be some broader considerations that ultimately might affect civil rights in other communities that would be affected by a particular grant downstream or wherever. I think one of the things that interests this Commission is not only the coordination within an Agency to bring civil rights priorities into focus, prior to the allocation of Federal monies, but an additional and perhaps even more basic question is the coordination between Federal Agencies, as your answer just suggested that you are well aware of the need for coordination between Agencies to carry out the Civil Rights Act.

What I am wondering is, what is the coordinative apparatus that you foresee between your Agency and the rest of the Federal Government on all of the various projects that you might have a part of, HUD might have a part of, and others, in an area. Do you foresee a review committee, for example, in a regional office through which all of you would meet once every few weeks and review applications in housing, sewer construction, whatever? Do you foresee a review apparatus here in Washington that tries to pull this together? Or do you see your own Agency enforcing its civil rights responsibility only when they get, say, a complaint from HUD that some community is in violation in a particular housing project or whatever, and therefore ask you to invoke your sanctions or to think about invoking your sanctions? I am trying to get at the apparatus involved.

MR. RUCKELSHAUS. Yes. I think the latter way may have been the procedure in some instances in the past and clearly this is not the best way to go about it. There has to be some anticipatory mechanism to avoid these kinds of problems in the future and to avoid our simply responding to complaints as they come in. And I think that clearly the coordinating agency has to be HUD, whose primary responsibility it is to enforce these provisions of the act or to see that they are complied with, and that we will, in our relationship with HUD, rely very greatly on them as the motivating Agency to insure that we can do whatever possible to insure that these provisions and the spirit of the act are carried out.

VICE CHAIRMAN HORN. All right. Now, HUD has put out, I guess as of yesterday, a series of fairly elaborate evaluation applications with

criteria for both low-rent public housing, rent supplement, and I guess 235, 236 housing. I can't find on those applications, but perhaps staff can correct me, where other considerations of programs by other Agencies are also involved, and I just wonder if maybe the Federal Government needs one basic form in this sort of general Federal grant area as it relates to the municipality or local regional area which could be sent to the appropriate Agencies at the time for review and comment, and either, as I suggested earlier, pull together at the regional level or in Washington.

I think one of the problems we have seen in hearings in St. Louis and Baltimore is the problem of regional coordination. When we talk to real estate brokers and builders, as we did yesterday and on other occasions, there is a real problem as to getting answers out of HUD, for example, because all the paper seems to have to trickle to Washington, and there is a great delay in implementing these programs. What some of us are trying to get is, can we develop criteria which can be administered in the field in some of the civil rights areas and yet achieve coordination, and as you correctly suggest, I think, in the answer to my last question, not just depend on sort of a happenstance of an individual initiative within one Federal Agency to notify another Federal Agency. Do you have any feelings on that?

MR. RUCKELSHAUS. Yes, one of the things we have done—we have done two things in relation to your question since the Agency has come into existence. One is review our entire grants procedure in an effort to streamline that procedure and cut out as much of the redtape as possible, because one of the problems that certainly we have had in our grants procedure in the past is the proliferation of paper that is involved in the acceptance of one of these applications. Second is to reorganize our entire regional structure. We had different regions for air pollution and water pollution, solid waste disposal, and pesticides all over the country. We have now taken all of those regions and combined them into the 10 regions that have been adopted by the five major domestic Agencies, so we are in the same cities of the country with our regional offices as is HUD and the other domestic Agencies. We have attempted to strengthen very greatly our regional offices so that by the first of July, when we will announce our final structure for the regions, we will probably have the strongest regional structure with more delegation of authority and responsibility as any Agency in the Federal Government. We believe this is a necessary step in order to achieve a much stronger regional approach to the problems of the environment and waste treatment in general. So that we would be very much in favor of what you are saying as an approach to the handling of this problem at the regional level, with coordination between our Agency and HUD and the other domestic Agencies that are involved.

VICE CHAIRMAN HORN. All right. Then, to summarize, as I get your answer, you say, one, it is feasible to decide these questions at the regional level. In the case of your Agency there will be sufficient power delegated to the regions, and in this area, as far as civil rights coordination goes within the Federal Government, because of the interrela-

tionships, you would look to HUD to serve as the major coordinator of the civil rights aspect within the region, is that correct?

MR. RUCKELSHAUS. Yes, that's right. The question of its feasibility, I suppose, remains to be seen, but we are hoping that it's feasible because of the approach that we have taken.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN HESBURGH. Mr. Staff Director, do you have any questions?

MR. GLICKSTEIN. I have a few questions. I am interested in some historical perspective. You said, Mr. Ruckelshaus, that one of the disadvantages of strictly enforcing civil rights requirements is that the people that you are trying to help might suffer. I remember back in 1963 when this Commission proposed Title VI, one of the arguments that was made throughout the Government was that sort of a weapon was very impractical and undesirable because it would result in hurting the people that you were trying to help.

It seems to me, though, that you have a variety of weapons, and I am particularly interested in litigation. If you sued a community and got an order requiring them to do something about the sewage, don't you really have them where you want them? Either they are going to have to raise the money to do this or accept a grant from you, and at that point comply with civil rights requirements?

MR. RUCKELSHAUS. Yes, we do. If we go through the process of 180-day notice and the suit, we would, through the injunction process, be able to get an order against a community forcing them to take some kind of action.

MR. GLICKSTEIN. Well, one of your, as I understand it, hesitations about going through that process is that in the meantime the rivers will continue to be polluted while you are trying to get a court order, but 180 days seems a rather short time to me. We have been waiting 100 years to enforce the 14th and 15th amendments and waiting a little bit longer to clean up some of our rivers doesn't strike me as too much of a delay.

MR. RUCKELSHAUS. No. I don't mean to imply that we are not using this mechanism because we are, and we are using it in as forceful a way as we can in attempting to push communities into compliance with the water quality standards. The main inhibiting force against using it in the past has been the lack of Federal funds, the very thing that we are discussing here that there is a possibility of withholding to insure compliance with the Civil Rights Act. There has evolved in the last 15 years an understanding on the part of communities and States, and to a certain extent even the Federal Government that there was no obligation on the community to move ahead with the construction of sewage treatment plants unless the Federal matching funds were available.

MR. GLICKSTEIN. That's not correct.

MR. RUCKELSHAUS. That is not correct now because the funds are available and we are in a much stronger position.

MR. GLICKSTEIN. But even if you didn't have funds you'd be able to sue a community to stop water pollution, isn't that correct?

MR. RUCKELSHAUS. That's correct. The understanding of the States and communities has not been a part of the law. It's been more a part of a tradition that's built up.

MR. GLICKSTEIN. Assuming that next year Congress decided not to give you any money for grants for sewage treatment you still would have the authority to litigate.

MR. RUCKELSHAUS. That's correct, and we would use that authority, and I can't by any means predict what individual judges might do if Congress failed to appropriate the money and they had the argument that the Federal Government isn't doing its part, which is the argument they always use.

MR. GLICKSTEIN. Thank you.

CHAIRMAN HESBURGH. Mr. Ruckelshaus, we have found in some of our hearings that there are these regional councils. In other words, all the top people in a given region for HUD or for housing or for highways, or whatever, get together and talk over the total Federal approach, if you will, to the assistance of the communities within a given region.

I noted that you mentioned you are reorganizing your regional offices to go along with the 10 that have been established throughout the Nation. I was wondering whether or not there are such councils to which you belong in some of these regions.

MR. RUCKELSHAUS. Yes, we have requested that we be made a member of these regional councils so that our Agency's efforts are coordinated with the other Agencies in that region.

CHAIRMAN HESBURGH. This has really been one of the great problems we have found, the coordination problem. It may be that coming in as a new Agency you can ask the obvious question that the older ones have forgotten to ask: Who has got the responsibility here for all of us that we are working together to comply with the law regarding civil rights or equality of opportunity or equal protection? Do you have a special office within EPA for compliance with civil rights?

MR. RUCKELSHAUS. Yes, we have an Office of Equal Opportunity which Mr. Sydnor is the Director of, and also the Office of Contract Compliance which is in the Grants Office.

CHAIRMAN HESBURGH. They report directly to you?

MR. RUCKELSHAUS. Yes. Mr. Sydnor does. The Office of Contract Compliance works through the Grants Office itself.

CHAIRMAN HESBURGH. I see. Are there any other questions on the part of the Commission?

(No response.)

If not, is there anything you'd like to ask us, Mr. Ruckelshaus? Turn around is fair play, they say.

MR. RUCKELSHAUS. No, I have no questions of the Commission, Mr. Chairman.

COMMISSIONER MITCHELL. Just ask for half a billion dollars.

MR. RUCKELSHAUS. Yes, I'd be glad for you to appropriate some more money.

CHAIRMAN HESBURGH. We'd be happy to have anything you'd like to leave us in the way of witness testimony and any subsequent state-

ment you'd like to add we could include in the record.

MR. RUCKELSHAUS. We will submit a statement outlining very carefully all of these things we have discussed here today so that it's as clear as we can possibly make it.

(This Statement appears on p. 1011.)

CHAIRMAN HESBURGH. I think it's terribly important for a new Agency to have this clearly in the record, and we are delighted that you could come and clarify this record for us. Thank you very much, Mr. Ruckelshaus, and you other gentlemen, too.

Our next witnesses are Mr. Robert L. Carter and Mr. Ernest Erber. Mr. Carter is president of the National Committee Against Discrimination in Housing and Mr. Erber is director of research.

Mr. Carter, I guess you are by yourself, right? Would you please stand and be sworn.

(Whereupon, Mr. Robert L. Carter was sworn by the Chairman and testified as follows:)

**TESTIMONY OF ROBERT L. CARTER, PRESIDENT, NATIONAL
COMMITTEE AGAINST DISCRIMINATION IN HOUSING,
NEW YORK, NEW YORK**

(Mr. Carter's prepared Statement appears on p. 682.)

CHAIRMAN HESBURGH. Mr. Hunter, I believe, will begin the interrogation this morning.

MR. HUNTER. Good morning, Mr. Carter. Could you please state your name, address, and position for the record?

MR. CARTER. My name is Robert L. Carter. My address is New York, New York, and I'm president of the National Committee Against Discrimination in Housing.

MR. HUNTER. Mr. Carter, could you explain for us first of all why it is important to provide suburban housing opportunities for low- and moderate-income blacks and, secondly, given the fact that low-income whites live in suburbia almost to the same extent that middle- and upper-income whites do, would you explain why it's necessary to construct new low- and moderate-income housing to provide these suburban housing opportunities?

MR. CARTER. It's necessary to provide low- and moderate-income housing for blacks in suburbia because all of our urban growth seems to be going in that direction. We have made a study of this problem and we are making a very intensive study of suburbia and employment in the New York Metropolitan Area. That study will be completed, we hope, at the end of this year.

What it tends to show is that the jobs are moving out, that there is a displacement and mismatch between job opportunities and availability. Blacks are being left in the cities while blue-collar jobs are burgeoning in the suburbs. At the same time the central city is becoming generally professional, managerial, high prestige white-collar employment, and service oriented.

This, we think, increases the unemployment in the ghetto, and blacks either don't know of the jobs because they aren't out there, or

else they can't get there because our whole transportation system has been built not to transport people in the morning from the city to the suburb and in the evening from the suburb to the city, but vice versa. So this is the real problem that is being confronted. One of the basic reasons we need it is in order to have blacks out where the job opportunities are so that they can have expansion and so forth.

Now, the other question you asked, that is why do you have to build new housing, is because of the fact that there just isn't enough available housing supply. We are going to be required, I think, in a massive Federal effort, to build housing that will dwarf what was done after World War II. So I think what we need is far more low-and moderate-income housing in order to take care of not only the blacks but the poor whites as well.

MR. HUNTER. Some people make a distinction between racial discrimination and economic discrimination. Do you think that that is a valid distinction to make?

MR. CARTER. Well, let me put it this way. Let me answer the question simply, no. I don't think it is a valid distinction to make. I have to concede and it has to be conceded that there are now a growing segment of the black population that is privileged, but the majority, overwhelming majority of blacks, are underprivileged blacks to an extreme, and the income level of blacks, aside from I think the President quoted some statistics to show that the husband-and-wife families of age under 25 are now at the same level as whites. In other words, that disparity had been eliminated. This is undoubtedly the class of educated blacks where opportunities have been made available to them. But the disparity in income—

MR. HUNTER. Excuse me, if we could just dwell on those figures. Do you have any more explanation as to why for married couples under 25 it's equal?

MR. CARTER. Well, I think that what it shows is that we are beginning to reach a point in this country where distinctions are being made between blacks who are privileged, who are educated, who are qualified, and blacks who are underprivileged and who are not qualified. So what is beginning to happen is that with educational opportunities being made available to the younger generation of people which heretofore had not been available, they are at present, at least at the beginning of their professional careers and job careers, they are entering the job market at the same level as whites of the same age. This is an unusual thing to happen in our country and about the first time any statistics of its kind have been revealed.

MR. HUNTER. Do blacks and whites enter the job market at the same age?

MR. CARTER. Well, blacks and whites don't enter the job market at the same age but this group of people I'm talking to in all probability they do. I am talking now, as you understand, about the small percentage of blacks who were spoken of as I would say would be economically privileged that these statistics refer to. The other blacks, the vast majority of them, I think the figure is about 45 percent, the disparity

between their income and whites is great and is increasing, as a matter of fact. So that where you have about 45 percent of a population of blacks and Puerto Ricans and other nonwhites who are economically disadvantaged, whose average income is several thousand dollars below that of whites, then to speak of it as being a distinction between economics and race I think is false. It seems to me that what really is occurring—and I have noted this in the educational field—that there is an effort to say that we have ended the whole problem of racial discrimination in this country since before the law there is no such thing as racial differentiation being validated. Before the law there is an equality but in actual practice there is not. Therefore, people now begin to say that in education it's not racial discrimination that denies black children an equal education opportunity; it's class. But you can't differentiate class from race in that context, and to attempt to do so I think is to build a sophisticated argument, a lawyer's argument, which shouldn't hold water at this time.

MR. HUNTER. The 1970 census shows that, despite the huge increase in white suburban population between 1960 and 1970, actually the percentage of suburbanites who are black increased in the last 10 years. In light of this, do you think it's necessary to enforce fair housing laws even more vigorously or more vigorously than such laws have been enforced in the past, or is this problem taking care of itself?

MR. CARTER. Well, I think that, one, you have to look at those statistics. An increase of two people to four is 100 percent increase, but it may be meaningless with respect to actual figures.

MR. HUNTER. But what I am talking about here is not the percentage increase in suburbanites but the percentage of suburbanites who are black. Now that blacks held, even gained, in this percentage shows there was a very substantial increase in number.

MR. CARTER. Yes, but if you would follow the figures you would also find that the blacks are not the substantial increase in the newer communities in outer suburbia, in the areas which are being built. You never had a situation in which blacks were not in the suburbs. But where you found blacks were in essence an extension of the ghetto, or concentrated in certain older communities where whites had fled. So I think that it is not a true picture, number one, to cite those statistics and reach the conclusion that the barriers have been broken down and therefore blacks are moving freely in the suburbs, because they are not.

MR. HUNTER. Could you give me examples in metropolitan areas where this is happening, where blacks are going into new suburban ghettos or older communities?

MR. CARTER. All I can know is in respect to—well, I'll tell you a community. In the San Francisco area, where Oakland and San Leandro are adjacent communities, Oakland is a community which has a high percentage of blacks. The other suburb is almost totally and exclusively white. It is a newer suburb with high-and middle-income groups. I think you will also find this in the areas in and around New York. Places such as Mount Vernon and a few other places, towns in and around close to New York, older communities, do have a consider-

able percentage of blacks, but the newer communities, as you move out, do not. And I think this is true throughout the United States.

MR. HUNTER. If we look at these different suburban areas where blacks are going and whites are going, does this really make a difference? Does it matter to which suburbs they go, that they go to newer ones, that they go to white communities? What do these suburbs have to offer?

MR. CARTER. Well, I think I have tried in the earlier question you asked to answer that question. The industry is moving out and it's moving to the newer communities. New York, for example, is losing large, major industrial plants. They are being relocated in the newer suburbia. So that, one, the job opportunities seem to be going in that direction, and number two, what the blacks are doing in the older communities, they are inheriting the older housing which does not have the amenities and so forth, which would be available in newer suburbia.

MR. HUNTER. If we can turn now to policies of the Federal Government. Would you explain to us briefly what deficiencies you have noted in the suburban access policies and practices of HUD and the rest of the Federal Government; and secondly, could you explain whether on the basis of the President's statement and yesterday's announcement by Secretary Romney, Attorney General Mitchell, GSA Administrator Kunzig, whether you see a shift in Federal policy on suburban access?

MR. CARTER. Well, in regard to the last question, let me try to deal with that first because I am somewhat confused. I certainly applaud the action of the Attorney General in announcing that he was finally taking action in Black Jack, Missouri. I also liked what I heard about the new policy—not the new policy but the announcement of the policy of HUD that no longer water and sewage grants would be conditioned on open housing.

I say I am confused and, therefore, I'm going to have to wait and see whether these policies, at least the HUD policy, effectuates any real change in practice. The President's statement, I thought, seized upon a Supreme Court decision which had nothing to do, as I understand it, with Federal responsibility. The Supreme Court decision, being about the *Valtierra* case from California, in which the Court, as you well know, held that a California law which permitted local communities to determine to vote on whether or not they would have low- and moderate-income housing, did not deny equal protection under the 14th amendment.

However, it seems to me that this has nothing to do with the Federal Government's responsibility, one, under the fifth amendment and, two, under the 1968 Housing Act, and even more important, under the 1964 Act, Title VI, to affirmatively move in the area of seeing to it that there are open communities and open access to any facility or instrumentality that was created out of Federal funds.

I think that the whole problem of allowing this to be local initiative, local control of land use, has proved to be chaotic. What we really need, as a matter of fact, is control at the regional level, certainly control at

the State level. One of our most precious and one of our most rare commodities, scarce commodities now, is going to be available land, that is, if we are going to be concerned about environment, if we are going to be concerned about these various other things. Therefore, to allow local communities on the basis of their own views, even apart from the question of race and economic discrimination, to make determination for land use I think is very bad.

MR. HUNTER. How can you bring about this control at the regional level or at the State level?

MR. CARTER. Well, one suggestion is New York has passed a New York urban development law and created the New York Urban Development Corporation. That agency has the power to build houses, to bypass zoning, to establish it, based upon the needs for growth and housing in the State of New York. It seems to me that something of that sort ought to be created in every State, because I think the ultimate responsibility for equal opportunity in housing is a State responsibility, and that the State has abdicated it by saying these problems are local in nature.

MR. HUNTER. Do you have any knowledge about how effective this New York Urban Development Corporation has been in opening up housing opportunities?

MR. CARTER. The New York Urban Development Corporation has not utilized the power that it has to the extent that if I were the head of the agency I would want it to do. What I am suggesting to you is that it has that authority and has the power to utilize it, and may displace local zoning regulations in order to develop all types of housing.

MR. HUNTER. Let's just ask if you were head of that agency, would you really use that power effectively or would you consider that the whole thing would be abolished or not funded if you used that power?

MR. CARTER. Well, that's one of the problems that I think that I have. You put your finger on it in terms of the administrators of anything that has to do with civil rights. It seems to me there is a responsibility on an administrator that has charge of a program which affects equal opportunity and equal rights to enforce that to the limit, not to take the least step which has been true of most of our State agencies, as a matter of fact, in all of our State agencies I would say in the area of discrimination, where they are charged with the responsibility of eliminating discrimination. They take tentative small steps instead of utilizing their power to the fullest, and it seems to me that if we have an agency that is in charge of providing equal employment opportunity, equal educational opportunity, equal housing opportunity, that that charge ought to be enforced to the limit and that the agency ought to make the determination that this is what the policy is and we're going to enforce it.

MR. HUNTER. Do you think the Federal Government could be of assistance in enabling agencies like the Urban Development Corporation to act more effectively?

MR. CARTER. Well, I would think so, because I would think the Federal Government could undergird the efforts of any of these agen-

cies. What it could do in terms of monies and grants, and so forth, it could condition the money and grants on two agencies that had an open housing program policy. They certainly aren't going to have enough money to give sufficient funds to everybody who wants it, and it would appear to me that if the Federal Government, in terms of the grants that it would permit, would select and choose among those who most closely are adhering to the equal housing opportunity standards that we would move far, because this would encourage others I think to move along with it.

MR. HUNTER. If we could return to the President's statement, it talks about giving priorities in grants for housing and community development programs to areas that have plans for the provision of low- and moderate-income housing. Do you think that this requirement should be limited to programs of housing and community development, or could it be extended to all programs such as, for example, assistance to schools?

MR. CARTER. Well, I don't see any reason why it should not. It would appear to me that the Federal Government, that is, if it were determined to embark on a vigorous course of enforcement of equal opportunity under the law, that the Federal Government could condition its grants on a range of matters. I think that one of the ways—you can have segregated housing and promote segregated schools and promote discrimination in job opportunities, so you can reverse the trend, I think. You have open housing, you begin to have an area with open schools, at least open schooling is easier to come by, and greater job opportunities, so that instead of blacks being involved in this never-ending circle one way, we might unravel it by starting on the other. I certainly see no reason why the Federal Government can't require that the local communities take action in all of these areas as a condition of receiving Federal funds.

MR. HUNTER. Would you consider that forced integration if the Federal Government did that?

MR. CARTER. I don't consider it forced integration. I think I consider it—we have made that statement on several occasions—we consider this to be an obligation of the Federal Government and we consider this to be the law. We consider that the Federal Government has an obligation to enforce the law. We talk of open housing and we talk of equal opportunity, but what occurs is that we act to the contrary, and our Government officials instead of making us—and that is the people—adhere to the legal and constitutional standards which we say we live by, instead allow us to depart from those standards on the grounds that this is just too difficult to do or it's one of the things that you can't force down people's throats, or some other response of that kind.

MR. HUNTER. Mr. Carter, do you have a statement to submit for the record?

MR. CARTER. Yes, I did. As a matter of fact, I was trying to tell you I had that before you started but you asked the questions before I could get it out. So may I present this?

MR. HUNTER. Mr. Chairman, could that be admitted to the record?

CHAIRMAN HESBURGH. Yes, sir, so ordered.

(Whereupon, the document referred to was marked Exhibit No. 22 and received in evidence.)

MR. HUNTER. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Mr. Ruiz, do you have any questions of Mr. Carter?

COMMISSIONER RUIZ. Yes. There is a trend at the present time to eliminate case-by-case litigation wherein three or four persons, disadvantaged persons, may by the use of class actions get injunctions and even get punitive damages. It's particularly developing in my State of California. Has the national committee that you represent studied the possible impact as a tool for litigation?

MR. CARTER. Of a class action?

COMMISSIONER RUIZ. As a tool for litigation by class actions.

MR. CARTER. Well, I don't know whether it would be correct to say we have studied these actions. We know this is an effective tool and it is being utilized effectively in the consumer area. Attempts are being made.

COMMISSIONER RUIZ. I am just wondering now if that couldn't be applied, and I was wondering what your opinion was as a lawyer to remove barriers imposed by zoning codes. Could these be the subject of actions for injunction or for writs of mandate to open land uses? Don't you think it would be worthwhile to get a group of lawyers to work on that specific item?

MR. CARTER. Well, actually, Mr. Ruiz, we have actually filed some cases on that. We are engaged in litigation which does seek to—as a matter of fact, we have some litigation pending in California.

COMMISSIONER RUIZ. By way of class action or by way of two or three individuals independently?

MR. CARTER. No, this is by way of—the one I have in mind is by way of an organization called the South Alameda Spanish Speaking Organization, which sought to establish low-and moderate-income in Union City, and by referendum, even though they got the zoning changed, were not permitted to do so. So we brought an action challenging the referendum and the use of the zoning power of the community in that regard. We got a fairly good declaration for law of the Second Circuit which indicated the courts would have to look at the impact of the zoning on the poor, and particularly since most of them were poor blacks and nonwhite minorities.

Let me say that in the whole civil rights field that the class suit has been utilized as a weapon and fairly effectively. I do have some problems with the case-by-case method because I think that even with class suits, what you end up, in a case-by-case method, is that you can only take ascertain limited part of the problem to the court, or if you take the whole problem the court is only going to determine—

COMMISSIONER RUIZ. The entire problem. You might take a state-wide problem to court. It's a consumer matter.

MR. CARTER. The court usually will only take a step, and also it takes a long time. Also, there is a great deal of money involved. Also,

the court decision doesn't necessarily, even though it sets a climate, effectuate a change, and I think that has been shown by what happened in the school segregation cases. It wasn't until the Federal Government began to enforce Title VI in regard to school segregation that you began to get an effective implementation of the 1954 decision.

I am inclined to think, frankly, that for the future the most effective way—and I think the Supreme Court is a little weary now and feels it's been left out in the cold, standing out alone on these frontiers in terms of race relations law, and the Congress and the President of the United States not vigorously backing them up, and I think the Supreme Court wants some support. I think that in the future the most effective approach is going to be through the legislative method and through Executive action, because I think in that way we are going to be able to get mandates, use of control of finances, and punitive measures of that kind to effectuate change.

COMMISSIONER RUIZ. You mentioned the referendum. There would be no objection, and the referendum even under the Supreme Court decision can easily be reconciled and gotten out of the way if, in the event in such a class action, the overriding matter pertained to race.

MR. CARTER. Exactly.

COMMISSIONER RUIZ. So we have no difficulty there.

MR. CARTER. No.

COMMISSIONER RUIZ. Now, you made mention of something that occurred in California with relation to some sort of an action where there was a referendum and there was a Spanish speaking section involved. What happened?

MR. CARTER. Well, in Union City there is a group of low-income people living in Union City, chiefly Mexican Americans, and they found several parcels of land and decided they wanted to build some low- and moderate-income housing on the land. They had to get a zoning variance and the city council approved or granted the variance, and then there was a referendum and the referendum overrode the city council and barred the construction of about 240 homes of the low- and moderate-income families.

We took the matter to court and attacked the constitutionality of the use of the zoning power to this extent on the ground that it was economic deprivation, and number two, it was racial discrimination. We lost in the district court and went to the Court of Appeals for the Ninth Circuit, and the Ninth Circuit affirmed generally, but what it did say was that local zoning power had to be utilized and had to be looked at to determine what its impact was on the poor, most of whom were minority group members, and if the impact was unduly great on the poor, then this was a matter which would be denied by the 14th amendment.

COMMISSIONER RUIZ. No question of race was brought up in it?

MR. CARTER. Yes, we argued race and economics.

COMMISSIONER RUIZ. And the Ninth Circuit Court of Appeals paid no attention to that?

MR. CARTER. Oh, yes, they did. They held that the impact of race

and economics was a factor that had to be considered. We went back to the district court and had a full trial, and the district court reached the conclusion that the city had an obligation to provide for low-and moderate-income persons, and required the city to report to it as to what plans it was making in that regard. We are now in the process of maybe working something out in terms of a settlement. It won't give us any constitutional development in terms of principles of law, but certainly will provide some low-and moderate- income homes for Mexican Americans in that area. That's the extent of how the case has developed up to this point.

COMMISSIONER RUIZ. Thank you very much. No further questions.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. Mr. Carter, one of the jobs of the Civil Rights Commission is to recommend to the Congress and the President certain kinds of possible legislation that will deal with ongoing problems in the civil rights field. It's very rare we get a witness, recently at least, who says to us that the future of civil rights, the future progress of civil rights, will depend in large measure on legislative action. In the paper you have submitted, which I have not seen, have you outlined or made various specific recommendations for legislative action?

MR. CARTER. Well, let me be sure that we understand one another. I do not regard as being necessary when I made that statement that there be any new statutes enacted by Congress. What I am talking now of is legislative action, I am talking about the exercise of administrative authority pursuant to legislative enactments, and executive authority under executive power.

COMMISSIONER MITCHELL. So you would generally accept the assumption that many other people make that there are plenty of laws on the books to cover the problems of civil rights, that the problems now are guidelines, and enforcement practices and adherence to the laws on the part of the agencies responsible.

MR. CARTER. I think I would endorse that very strongly for the further reason that I am not too sanguine about our getting any more additional laws during the present time. It seems to me that we have a sufficient amount of authority and if the administrative agency would enforce that authority to the limit, then I think that we would have a change in the open housing issues in this country.

COMMISSIONER MITCHELL. Early in your testimony you made reference to the fact that in some cases for some categories of minority people, things appeared to be better. Would you care to take a look 10 or 20 years in the future and make some general forecasts about the very thing we are talking about here, prospects in housing and jobs?

MR. CARTER. Well, I'll tell you, Mr. Mitchell, I am very hesitant to do that because I look back on 1954 when the Supreme Court decided the school segregation cases. I think I was one of those that predicted that we had won the battle, and my predictions have been proved to be so false I am a little hesitant to hazard out 20 years. It does appear to be that what is happening with the opening of educational opportunities to blacks, that we are beginning to develop over the past 5 years

what I would call a growing middle class. That is, blacks who have qualifications, are privileged, and so forth, and this group, to an extent not heretofore are being economically rewarded to the extent that our educated groups in the past have not. I would think that maybe that trend will continue. I don't know what that will mean. It may mean that we will be able to perhaps in time, maybe one would be able to make a distinction between race and economic deprivation. I don't think we have reached that point now, and we are only just at the beginning of it, so I hesitate to make any predictions.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Carter, I believe you know that last October this Commission released its report on the Federal civil rights enforcement effort.

MR. CARTER. Yes.

COMMISSIONER FREEMAN. In which our general conclusion was that the Federal Government itself was not enforcing to the maximum extent of the civil rights laws, that there is a dual standard. I'd like to ask you how you see an agency such as NCDH assisting the Federal Government in this regard to the extent that we know that some of the persons who are responsible for carrying out the program are those same persons who during maybe the past 10 or 20 years were also in position of denying the opportunity. Could you speak to this point in terms of cooperation between a private nonprofit organization and the Federal Government?

MR. CARTER. Well, there are two ways that we seek to do it. One, we now have been working with HUD on a demonstration project in the San Francisco area. The purpose of this project is to attempt to develop an action prototype that would, one, reverse the trend towards closed housing market, and number two, that would open up opportunities in general. This is one of the areas. So I think in that way we are trying to assist.

Secondly, I think that organizations and agencies such as ours, and to some extent I suppose we are sort of like the Civil Rights Commission except that we deal with this one agency, we deal with housing chiefly, that is to be sort of a gadfly to police what is being done, to make suggestions in terms of guidelines and policies and programs to the agencies involved, and publicize and document their failures.

COMMISSIONER FREEMAN. I'd like to refer you to the President's statement of last Friday which included in the basic principles, and I quote: "A municipality that does not want federally assisted housing should not have it imposed from Washington by bureaucratic fiat. This is not a proper Federal role."

Now, conceivably such a municipality could consist of 100 percent of persons who resided at homes insured by FHA mortgages up to \$33,000. I would like to know if you would comment on whether it would be appropriate to include FHA-insured mortgages as a Federal benefit or not.

MR. CARTER. By all means. I think that it has been with FHA and

VA and the Federal Home Loan Bank and various agencies of that kind that have made possible really the development of these 99 percent white neighborhoods and white communities. I would think that the Federal Government in saying that we can't force this on them, what they are doing, what has been done—too much of this has been done in the past—is that when it becomes a requirement of equal opportunity, too often the Federal agency or the Federal executive, or whoever has the responsibility, will say this is something that we cannot do; we can't force things down people's throats, but when the utilization of Federal funds and Federal grants and Federal money and Federal credit is being utilized to in fact deny opportunity, to enforce segregation and things of that kind, the Federal Government seems to feel no obligation to utilize this policy to prevent that. Now, it's chiefly because of the fact that the people who take the money, the grants, and so forth, are not saying openly we are going to segregate. But as a matter of fact, the Federal Government knows that they are going to do that, and often it has encouraged that to be done. I would think that if money, mortgages and that kind, are going to be underwritten by the Federal Government, that it certainly can say to the people where the funds are going that it will not tolerate any denial of equal housing opportunity.

COMMISSIONER FREEMAN. We received testimony this morning concerning the Environmental Protection Agency and, of course, we all recognize the benefits from such an agency. I would like to know if you would comment on whether you see any basic distinctions between imposing the environmental controls from imposing the responsibility to provide housing for low-and moderate-income families.

MR. CARTER. The point is, it's a question of priorities, and what has happened with the nonwhites is that they have always been put on very low priority. I listened to part of Mr. Ruckelshaus' testimony, I came in the latter part of it, and at least I got the impression that he seemed to feel that he would be moving a little too far to enforce antidiscrimination policies in terms of the environmental controls, because of what this would mean in terms of pollution and so forth in regard to people. But it seems to me there are several answers to that that he ought to consider. One of them I think I said earlier, he doesn't have enough money that he has at the present time to utilize to clean up the environment of every town and every city and every place in the United States, and therefore he can select, and he therefore very definitely ought to select, those places which are adhering to constitutional and Federal legal standards and Federal policy which is to provide open housing and open opportunity. Now, if he had an overabundance of money to utilize, I think that maybe at that point he would have a problem, but he doesn't, and I think at this point he can select those agencies that are doing correctly and this will bring other agencies in line. It seems to me it's a very false statement which I reject entirely, that he or the agency would be doing a disservice to environmental control by insisting on open housing opportunities.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Mr. Vice Chairman?

VICE CHAIRMAN HORN. No.

CHAIRMAN HESBURGH. Mr. Glickstein?

MR. GLICKSTEIN. I merely want to remind the Commissioners in case they have forgotten that Mr. Carter was for many years the general counsel of the National Association for the Advancement of Colored People and handled before the Supreme Court some of the most significant civil rights cases in the last 15 years and, as I recall, he had an almost perfect batting average. We are very happy to have him here today.

MR. CARTER. Thank you.

CHAIRMAN HESBURGH. Mr. Carter, would you care to say something about your organization, how it's financed and how it got started, what the questions are that you are really getting into, and what success you are having now with your program?

MR. CARTER. Well, we officially celebrated our 20th anniversary in March of this year. We were organized in 1950 and we were organized principally, primarily, and exclusively, I should say, to promote equal housing opportunity. Therefore, we concentrated on housing opportunity for low- and moderate-income families and to eliminate racial exclusionary policies. Our program is multifaceted. We have a legal staff. We engage in litigation, and we also engage in providing legal advice to communities on their obligations under the Constitution and under the Federal law. We engage in research. Mr. Erber is our director of research, and I think I mentioned earlier, Dr. Hesburgh, our report which Mr. Erber is now directing in which we are trying to pinpoint to an extent not heretofore done the correlation between housing opportunities and employment opportunities to show what dislocation occurs in urban growth as a result of segregated housing patterns. This is being done for the small metropolitan area involving five or six communities around New York.

We also engage in a demonstration project which I think I spoke of earlier in San Francisco, in which we hope we will be able to find means for being able to have a national action program and be able to say to communities that this is what you do and this is what you don't do if you want to have open housing develop. We also, of course, are national housing advocate, we provide services for communities and for fair housing groups, and what we also try to do is we try to be nationally the agency that keeps the country aware of the fact that housing, discrimination in open housing, is one of the most important facets in the whole civil rights field, and I think that civil rights organizations have not been aware of this. For the most part there has been the concentration, as there had to be, on the Southern problem, and as the Southern gains were made in *Brown versus Board of Education*, and so forth, they were being undercut by the rigid, the patterns of housing segregation that was developing particularly in the North and Midwest. We think that this is an urban problem which has to be attacked, and so that's what we do.

CHAIRMAN HESBURGH. How are you financed, Mr. Carter?

MR. CARTER. We are financed by individual contributions, and we are an agency that at present is composed of a large variety of member organizations who in turn support us, and we receive foundation grants and gifts. Our financing, except for special projects, is entirely private. We do have a HUD grant, which is a specific grant on which we receive funds, but for the most part our financing is entirely private.

CHAIRMAN HESBURGH. I had one last question. This is just a slight matter of understanding on my part, probably, or misunderstanding. You mentioned in the early part of your testimony about the relationship between housing and employment and the fact that the whole transportation system is not set up to get people from the central city to the suburbs where the jobs are, and then back again at night, but vice versa, which I take to mean that you say the transportation system is set up to bring people from the suburbs into the city and back to the suburbs at night. But how does that work out practically? With roads, they run both ways, and it would seem to me hard—you are probably talking about train or bus schedules or something else perhaps?

MR. CARTER. What occurs is you may watch the schedule—I used to live in the suburbs and I know. In the morning, from about 7:30 or 7, probably, until about 9:30, one is able to get a train about every 10 or 15 minutes into the city, and then the train schedule goes off maybe an hour or half-hour. In the evening, from about 4:30 until about 6:30 or 7, you have the same pattern. All the trains for the most part just go in one direction, and there is not enough equipment to have all the trains going both ways in terms of that.

CHAIRMAN HESBURGH. You are referring mostly then to public transportation by other than private vehicle?

MR. CARTER. Yes, and I am referring to that chiefly because what I'm talking about are poor blacks who would have to rely on public transportation in order to get to the jobs.

CHAIRMAN HESBURGH. Thank you very much, sir.

Any more questions? Mr. Hunter, do you have any second thoughts on questions?

MR. HUNTER. No, I don't, thank you.

CHAIRMAN HESBURGH. We appreciate your coming, Mr. Carter. We are now going to adjourn until 11 o'clock. Thank you very much.

CHAIRMAN HESBURGH. May we come to order again.

Our next series of witnesses are going to speak to the strategies to end metropolitan polarization. We have three witnesses from universities, Mr. Lisle Carter, vice president, social and environmental studies at Cornell University; Mr. John Dyckman, department of city and regional planning, University of California at Berkeley; Mr. Bernard J. Frieden, associate professor of city planning of M.I.T., Cambridge.

Would you gentlemen please take the oath and identify yourselves.

(Whereupon, Mr. Lisle Carter, Mr. John Dyckman, and Mr. Bernard A. Frieden were sworn by the Chairman and testified as follows:)

TESTIMONY OF MR. LISLE CARTER, VICE PRESIDENT, SOCIAL AND ENVIRONMENTAL STUDIES AND PROFESSOR OF PUBLIC POLICY, CORNELL UNIVERSITY, ITHACA, NEW YORK; MR. JOHN DYCKMAN, PROFESSOR OF CITY AND REGIONAL PLANNING, UNIVERSITY OF CALIFORNIA, BERKELEY, CALIFORNIA; AND MR. BERNARD J. FRIEDEN, PROFESSOR, DEPARTMENT OF URBAN STUDIES AND PLANNING, MASSACHUSETTS INSTITUTE OF TECHNOLOGY, CAMBRIDGE, MASSACHUSETTS

CHAIRMAN HESBURGH. Mr. Powell will get your names on the record.

MR. POWELL. Would you each please state your name, occupation, and present position? At the same time also briefly state the bearing your professional experience has on the problems of metropolitan racial and economic polarization being considered at this hearing.

MR. FRIEDEN. I am Bernard Frieden, 83 Washington Avenue, Cambridge, Massachusetts. I am professor in the Department of Urban Studies and Planning at M.I.T., where my work is involved with research into housing and of Federal programs and intergovernmental relations.

MR. DYCKMAN. I am John Dyckman. I'm a resident of Berkeley and professor of city and regional planning at the University of California in Berkeley. My interest for some time has been in metropolitan development and the emergence of the contemporary metropolitan region, a subject which I think is somewhat central to the issue before the Commission.

MR. CARTER. I'm Lisle Carter, Cornell University, Ithaca, New York. I am vice president of social and environmental studies, and also professor of public policy of the School of Business and Public Administration. My principal interest, both there and previously, is in the field of social policy and urban problems.

MR. POWELL. In the preceding day-and-a-half, we have heard much testimony about metropolitan racial and economic polarization. Mr. Dyckman, what in your view are the most significant detrimental effects of such polarization?

MR. DYCKMAN. First, I do want to say that the effects in my opinion stem very much from the processes that produce this particular polarization, polarization both of income and race. Very briefly I want to suggest that the polarization as we have heard it described in the meetings to this point result from two sets of forces, one which might be called consumer market competition forces, and the other which might be called governmental actions that influence the supply side.

On the market competition side, very briefly, certainly the present pattern which we see has been produced by competition for space and status, by the exercise of preference for public goods on the part of those who could afford to exercise that preference, that is, notably a preference for better schools in suburbs or for the absence of welfare payments. These particular conditions are based on the existence of many governments in metropolitan areas and on independent local financial support of governmental expenditures. Certainly this pattern has been produced by a protection of value stance by the exclusion of those people with different values. We have had some studies in the

Center which I directed at Berkeley of the behavior of people in new communities, and overwhelmingly these studies indicated that people were buying protection in new communities' exclusion of those people whose values or whose characteristics seemed to them different or unfavorable.

Finally, there is just outright racial prejudice which we might say produces the discriminatory price for minorities to get into suburbs, the people already disadvantaged in their ability to pay.

Now, the Government, in my opinion, has supported these tendencies with a variety of governmental practices. I will just mention a few. I would list the failure to impose desegregation on mass-produced housing from the VA housing following the 1949 Housing Act up to the present FHA support for so-called new communities which is simply large-scale housing developments. Also by the Government's suburban forming investments in transportation and sewer and water systems and largely in the taxation policies which have favored homeownership, that is, mortgage interest, forgivingness, and so on. And certainly by a whole host of local governmental practices, zoning and land-use controls, and particularly that zoning which we know that has favored large lots or attempted to favor high cost development.

The unfavorable effects, Mr. Counsel, I think are these: First, among the effects which I consider to be most unfavorable, I would list the schools' impact on the educational effect. The reason why I list this first is that I think that educational opportunity is critical to breaking the poverty circle, but as this particular pattern of metropolitan occupancy has developed, we find that the tax prices for education are unequal in the central cities and in the suburbs. By tax prices I mean the percentage of income of people that goes to pay for these public services. That is, in the central city people are actually paying a higher percentage of their income to support schools even if the total expenditure per pupil is less, and this, I think—that is, the effort is greater. And so long as the poor are concentrated in the central cities and school finance is predominantly local—after all, the local property tax provides about 57 percent of the costs of schools—this is the elementary and secondary schools—and the State on the average provides about 36 percent and the Federal Government, a very small percentage, around 7 percent.

Now, so long as this financing of schools is predominantly local and from the property tax, I think the opportunity to break through the poverty chain is very much reduced by this pattern of metropolitan settlement.

Secondly, there has been some mention of employment opportunities. While this question is not wholly clarified, and while I am not perfectly content with the condition of studies of the employment situation, I do think it is clear that the new jobs are being created now in the suburbs in very large measure, and this is new jobs for low-income people, and the access to those jobs in the present pattern is inadequate, not only in the suburban rail schedules as has been mentioned earlier, but I can give you some examples of how badly the contempo-

rary transportation systems do serve suburban employment opportunities for the central city resident, the minority resident particularly. This has been well studied in the case of Watts where it was established that in the Watts area of Los Angeles, access to jobs for which people there might be qualified was virtually nil because there is no adequate public transportation system in Los Angeles, none whatsoever, because jobs are more decentralized in Los Angeles than in any other city in the country, and because automobile ownership in Watts is substantially lower than the rate of automobile ownership generally in Southern California.

An additional example which I might offer is the example of the Bay Area Rapid Transit District which is building, as you know, a kind of metropolitan system for the San Francisco Bay Region. I have been a critic of this system and I am not saying anything new to people who have heard me talk about it before, but frankly I have been objecting to the system on the grounds that the system does not serve the minority job needs in the Bay. The reason it doesn't do it is, I would say, double or triple. First, they do not provide stations which will serve a number of the low-income minority communities. The system rather serves suburban commuters very much like a suburban railroad system. Secondly, the system is not providing stations at those points of low-income jobs, that is the destination, so it serves neither the origins nor destinations adequately for low-income minority people. And thirdly, of course, the system's pricing is even now or in anticipation going to be very high for low-income people.

CHAIRMAN HESBURGH. Mr. Dyckman, could I just ask a quick one here at the moment?

MR. DYCKMAN. Yes.

CHAIRMAN HESBURGH. What is the Federal involvement in that system?

MR. DYCKMAN. The Federal involvement is present in the form of grants for experimental features of the system. The system is supported by property tax revenues from the member counties, the three counties which belong to the district.

CHAIRMAN HESBURGH. Thank you.

MR. POWELL. Mr. Carter, do patterns of racial polarization deny urban minority equality of opportunity?

MR. CARTER. I think the answer to that is clearly yes. Mr. Dyckman has given you a picture of the objective facts which make this clear as far as choice for the minority population. When you relate that to physical confinement within the central city of minority populations, it's perfectly clear that you are talking about a choice with respect to housing which is available to black and other minority people, quality of that housing, the amount of that housing, the density and location of that housing. You are also talking clearly about what kind of educational opportunities can be provided, and now I am not arguing anything at the moment other than the question of what can be invested in education in the central city as opposed to what is invested in education in the suburbs. Of course we have heard repeated testimony, to

which Mr. Dyckman referred, that substantiates the general finding that up to 80 percent of new jobs in trade and industry are being created in the suburbs. When you look at what that means, beyond what contemporary opportunities are for adults in the minority population, it speaks to what the future is for the young, because obviously this seriously hampers the life chances of young minority people. Not only are they denied access to equal educational opportunities, but they also perceive the limitations and confinements and constraints on the opportunities that are visited on their parents and their peers, and this itself contributes to a crippling effect with respect to these young people, so you have a reinforcement of the problems that people so clearly noted about the central city or the inner core of the central city. And they are condemned to what has been the historically afflicted areas with respect to social problems however defined. So that the chances, one would have to say, of a young person getting on the much touted escalator of social and economic mobility coming out of that setting has to be significantly less than for people coming from other communities.

MR. POWELL. In connection with this problem, the movement thus far of minority people into suburbia has been characterized as a trickle. Do you agree with such characterization?

MR. CARTER. Well, the data obviously support that. Although there is an increase in absolute numbers, there is virtually no increase in proportion.

MR. POWELL. What significance does this have for blacks and other minority peoples in regard to the desirability of moving to suburbia?

MR. CARTER. Well, let me talk about this a little bit from the perspective of choice, which is I think the question that is really posed by the Commission's topic. In other words, I think we can get mixed up in rhetoric around terms like "forced integration" and "dispersal" and so forth. Each have their own unfortunate overtones, dispersal also being a kind of forced integration or forced changing of living arrangements, if you will, at least by implication. But we are now talking about the opportunity of people to live where they would like to live and live in a way that is consistent with the overall interest of this society.

Now, what we find actually—we don't have a good deal of data but there are obviously some observations that one can make—would be that there are two kinds of patterns for people, minority people, moving into the suburbs. One is the one that appears to be supported by the President's statement, which is that people of equal incomes ought to have equal access. Well, to a limited extent that's going on, although much more limited than I think is recognized. For example, I think it is interesting that in Mr. Brown's testimony yesterday, he said that if income would equalize between minority populations and the dominant white population, this would only be a shift of 3 percent in the distribution in the central city of population.

So you do get a small number of families moving into middle and upper middle class neighborhoods and, by and large, they do this in a

way that in effect subjects them to the homogenizing impact of the overwhelmingly white society. That is the life style that they are obliged to accept.

On the other hand, you have the movement which in effect is an extension of the central city minority community out into some nearby older suburb. This does two different things: By and large, this quite often means that many of the problems that we talk about in the central city are merely extended to the suburbs, and also quite often it exacerbates conflicts between minority people and working class whites who quite often have been living in those suburbs, so that the costs are interchanged at that level.

Now, what I think is of more interest to more minority people in wanting to move out of central cities to the extent that they do is that what they want are the same kinds of opportunities for decent housing and jobs and education for their children that white people have. They are not interested primarily in socially associating with whites, nor are they interested primarily in taking on the cultural values and standards of middle class whites. They are rather more interested in the kind of pluralism which we like to say that we stand for in this country but which the evidence is increasing that we really don't stand in support of in this country. Pluralism now has really gone down to really almost the political science definition of that term, again supported by the President's statement, meaning the pluralism of allowing small communities to decide to do with respect to social policy whatever they think is in the best interests of their community without any recognition of the interest of the larger community. But in the kind of cultural and value pluralism for which this society is supposed to stand, it is the significant resistance to that which I think is in large part responsible for much of the resistance of the migration of low-income groups and minority populations.

In this respect of having tried to make an over-simplistic analogy to what I have observed at Cornell, and I believe has occurred at other college campuses in the process of bringing more minority students to the campus, many of the Northeastern schools in particular for many years had a handful of minority students on campus, and those minority students, just by the overwhelming number of people they had to associate with, were in large part compelled to assimilate and accept the overwhelming value structure of the dominant group.

Then in the middle sixties began the movement towards bringing more minority poor students to campus. The numbers were relatively small but significantly, and particularly taken in the context of growing development of cultural self-awareness and appreciation, these groups found some commonality of interest but found frustration because their numbers were not significant enough to have any real impact on the way the campuses operated and they were expected to assimilate and react in much the same way as the old process worked when there was only a handful of students.

As this went on, however, and the numbers got larger, there were two liberating effects. One, the campus came more to recognize the plural-

istic responsibilities they had and take into account the interests and needs of minority population on campus and, secondly, there was the opportunity for greater pluralism within the minority population itself. It seems to me that when one is talking, therefore, about a strategy for bringing low-income and minority people into the suburban areas, you have to talk about where access is provided for a large enough number to make a critical difference both within the population and within the suburban area itself.

MR. POWELL. Dr. Dyckman, yesterday we heard testimony about the Dayton Plan, which provides for the provision of low- and moderate-income housing on a five-county regionalized basis. Would you describe comparable planning and review commissions in other parts of the country with particular reference to their capabilities in this regard?

MR. DYCKMAN. Well, first I should say that for some years now there has been a developing interest in metropolitan planning or metropolitan organization. This metropolitan organization in some cases takes a simple form of city-county consolidation as in Nashville-Davidson County, and in a number of other cases we have had the development of councils of government.

I think that potentially all of these councils of government, metropolitan councils, or these consolidated city-county metropolitan area planning groups, all of these could potentially play the role that Dayton and Miami, Ohio, have played. That is, I think there is presently the requirement that all metropolitan planning which uses Federal funding under the 701 program, that all of these plans must contain a housing element. It's possible, too, that if these metropolitan areas were to carry out the guidelines which are prescribed by the Housing and Urban Development Department to make provision for moderate- and low-income housing, that they could in practice develop the kind of proposal that is being made in the Dayton area. That is, I see not only is there no block to their doing it but there is considerable precedent for their doing it, both in the Housing Act provision of 1966 which required that there be a housing element in metropolitan planning, and in subsequent HUD guidelines over a few years ago which required that that housing element deal with moderate- and low-income housing.

Now, very frankly, the problem, the innovative feature I think of the Dayton proposal is that they have a formula which spreads the burden, if we call it burden, and so it's viewed by many of the communities in metropolitan areas, of moderate- and low-income housing over a wide number of communities. I think this is perhaps the direction in which other metropolitan areas will need to go to get agreement on the plan. I don't think there is any intrinsic reason, any persuasive logical reason why the distribution has to be so scattered, and there may be social reasons why it ought not to be so scattered. That is, I think in many instances members of the minority communities would prefer that they not be so diluted and in such small pockets within so many different communities.

So I have mixed feeling about the Dayton-Miami proposal. First, I

think it is extraordinarily good precedent to the extent that it has dealt directly with the problem which every other metropolitan area will have to deal with. Secondly, I think it's very ably put together as a program which can gain public support in that region and for which therefore we should be thankful. And, thirdly, I think at this point it remains to be seen how this will be implemented but I think they have a fairly good chance to implement it. Therefore, I think it may provide one solution which will provide one of the prototypes which we should observe in metropolitan planning elsewhere. I imagine that there will be others, that there will be other formulae devised which will offer us other prototypes. It's quite possible, for example, that in metropolitan areas we develop the jurisdictions merging some of the smaller jurisdictions which are large enough to contain more integral minority settlements within a single political subdivision or jurisdiction. That is, as I look at the numbers in the Miami-Dayton Plan, I think that they are in some cases too small to provide viable minority communities within those political subdivisions and I would hope that we could find a formula which would build up the numbers somewhat in any one political subdivision.

But I do feel that three things exist favorable to further experimentation on this. I have mentioned them. I will recapitulate. First, there exists now an embryonic form of metropolitan organization in a vast number of metropolitan areas around the country. Secondly, we have the precedent of both the 1966 Housing Act which required the housing element in all plans made by metropolitan areas which are federally supported under 701 grants; and, thirdly, we have the HUD guidelines requiring that we deal with medium-and low-income housing in these plans.

I would like to see the States and other Federal units, that is, units of the Federal system, also take an interest in this because I think increasingly the State role may be important in those metropolitan areas which are wholly contained within a single State as some are.

MR. POWELL. Mr. Frieden, are there criteria by which such planning and review commissions can evaluate the extent of the problem of racial polarization and would strengthening of A-95 be useful in obtaining such an evaluation?

MR. FRIEDEN. Certainly there is criteria and I think it's not a difficult technical job to develop the criteria by which these plans could be tested. For example, metropolitan planning agencies could be asked to identify what the gaps are between the housing, public service, job access conditions confronting minority groups in the region, and other people in that region, and come up with affirmative programs to close those gaps. The country now has some quantitative housing goals also as a result of the Housing Act of 1968 which commits us to building a certain volume of unsubsidized and subsidized housing over the next 10 years. It may be possible to translate these goals into allocations per region and provide some kind of numerical testing of how much housing different metropolitan housing plans provide.

In answering your question, though, about whether there are criteria,

I think it's important just to point to the fact that in my view the problem is not developing criteria; the problem is enforcing Federal guidelines.

It was mentioned earlier this morning that civil rights guidelines have often not been implemented properly and that is by no means unique to the civil rights field. In a great many Federal programs, guidelines and requirements that apply to low-income people just have not been taken seriously locally and have not been enforced by the Federal Government.

I call your attention to simply one reference on this, a study called the Legal Lawbreakers, recently produced by the Citizens' Advocate Center here in Washington, D.C. on the local flouting of relocation requirements. So the problem here I think is not really making up the criteria, but implementing them seriously and taking them seriously.

MR. POWELL. In this regard, would strengthening of A-95 be useful?

MR. FRIEDEN. Strengthening of A-95 would certainly be useful. I think a little background may be useful on this. A-95 was, to my knowledge, originally supported by the Bureau of the Budget around 1965-66, primarily as a way of improving the administration of the Federal grant-in-aid programs. However, that tool, the review of grant-in-aid proposals by metropolitan planning agencies, can give these agencies substantial leverage which they have through no other means to help guide the region's development and to be involved in the day-to-day decisions about how the region grows rather than concentrating primarily on long-range plans and studies.

The A-95 review does state the criterion that the project is to be consistent with metropolitanwide development plans. A-95 review does not, however, call attention to the provision of low-and moderate-income housing in any community as a requirement for Federal grants-in-aid. Strengthening the A-95 review procedure to give some priority to this matter, to low-and moderate-income housing, and to equal access to suburbia, could be important in a number of different ways. I think we should be aware of the leadership role the Federal Government has to play here and to the fact that Federal aid programs, Federal aid requirements, could go a long way towards strengthening those local officials who would like to move in this direction but need something to lean on.

In this respect I think the experience with the Model Cities Program is quite instructive. Model Cities required that Federal aid under this program be spent in the poverty areas of cities. My information from a number of mayors and mayors' aides is that this requirement was indeed welcomed by many big city mayors who wanted to increase the allocation of funds into those poverty areas, but were unable to take the political heat on that without having some Federal requirements to help along in the process. I think Federal requirements in metropolitan review could have that same effect of strengthening local officials who would like to move in this direction.

MR. POWELL. What about the President's statement that in order to qualify for Federal assistance a proposed project must be part of a plan

which makes provision for low- and moderate-income housing? Does that go some way in solving the problem?

MR. FRIEDEN. Well, certainly that is going to be helpful, but we have had that requirement in effect through the process that Mr. Dyckman described before, since 1966. That is, that water and sewer grants must be consistent with comprehensive plans; the plans must contain housing elements; the housing elements must include attention to low- and moderate-income housing. So those requirements have been on the books. I think Secretary Romney did make that clear in his own statement yesterday. The real question is how effective have they been and I think they have not been very effective.

MR. POWELL. Why haven't they been effective?

MR. FRIEDEN. The same problem that I identified before, the difficulty of enforcing Federal guidelines, local resistance, the fact that the metropolitan planning agency that handles A-95 review, is not a government. It's a special-purpose agency with voluntary membership typically. It has no power. It can only advise. It can use the power of persuasion. To amount to anything, these reviews have to be taken seriously by Federal aid officials.

MR. POWELL. But you do agree that if such guidelines were enforced it would be effective?

MR. FRIEDEN. Yes, certainly. But let me add one point to that. I think another reason why metropolitan planning review has not been as strong on this subject as we'd like it to be is the nature of representation on the metropolitan planning agencies. These are typically one representative per community in the metropolitan area which is to say that the voting representation is not on the basis of population. The central cities tend to be underrepresented. That means also that black people and poor people tend to be underrepresented on these metropolitan planning councils, and then we have to look to the nature of the voting powers on those councils if you want to see some improvement in this respect. In other words, we need both some improvements at the metropolitan area and some improvements in Washington for these criteria to be more effective.

MR. POWELL. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Thank you, Mr. Powell. Dr. Rankin, would you like to begin?

COMMISSIONER RANKIN. I have only one question, Mr. Frieden.

CHAIRMAN HESBURGH. Could I suggest that the Commissioners refer their questions to a specific person on the panel. That will make it easier for the panel.

COMMISSIONER RANKIN. Mr. Frieden, what principle of representation do you like? I mean you were talking about representation on one of these councils. Do you want the best man in the community on it, or do you want every element that makes up the community represented? I wonder which is your accepted idea of representation

MR. FRIEDEN. Okay. I was speaking to a more basic point which is the one-man one-vote principle. That is representation of communities in terms of how many people live there as a basic step. But beyond

that, as to how the community representatives are chosen, I think the general practice of having elected officials or representatives designated by elected officials is probably a good one. I think that gives a certain amount of political accountability which you probably would not have if you had separate elections to such a council occurring in an off-election year.

COMMISSIONER RANKIN. In your mind is it utterly impossible for somebody who is not an Indian to understand Indian problems?

MR. FREIDEN. Well, you raise another good point. There is a lot to be said for some special minority representation, a review by an advisor committee to such council consisting of minority people to underline the importance of elements in the plan that would be of relevance to minority groups. I certainly would favor that.

COMMISSIONER RANKIN. Thank you. That is all, Mr. Chairman.

CHAIRMAN HESBURGH. Mr. Ruiz?

COMMISSIONER RUIZ. Mr. Dyckman, I was interested in finding out whether there is a study being made with relation to the following: Parking lot ownership is a private extension of the transportation system in the sense that a fee is exacted to members of the public who ride automobiles. In suburban retail marketing areas, ordinarily free parking is furnished by the merchants to the customers. Access to marketing facilities within central cities is frustrating oftentimes to lower-income families because the law of supply and demand allows the parking lot businessman to charge a large fee.

Now, whereas in Los Angeles you indicated there was poor transportation facilities, transportation facilities are lacking, which is true, if a person owned an automobile in Watts and wanted to shop at the Grand Central Market in mid-Los Angeles it would cost more to simply park than to buy the gasoline back and forth.

I was wondering, with respect to this extension of transportation involving minority peoples, whether there is something afoot or some study that is being made with respect to this particular problem which is so frustrating to the poor person who may only have 50 cents in his pocket or a dollar with relation to getting to a source of food.

MR. DYCKMAN. Mr. Commissioner, I don't know of any study which has examined the user population of parking lots with particular emphasis on the low-income user or what the economist would say is his price elasticity of demand for that service. But I would make one observation about this. One of the advantages, of course, which suburban locations have had is that they have been able to provide relatively free parking. In fact, this is one of the strongest locational features in the competition for industry by suburban communities as against the central cities which have to charge for parking generally because they have to ration relatively scarce space. It seems to me that indirectly the point that you have made is an argument for many kinds of industries, especially those industries which have relatively low-wage scales to find spaces outside the central city where the effective cost of transportation of people using automobiles is likely to be lower because of the lower or zero parking fee in the suburban location.

COMMISSIONER RUIZ. Are any of the other two witnesses aware of any such plan?

MR. FRIEDEN. No.

MR. CARTER. No.

COMMISSIONER RUIZ. Thank you very much.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Carter, I think Mr. Frieden referred to the Model Cities Program. We are concerned with suburban access and, as we focus in on suburban access, there seems to be a danger in our failing to recognize the effect on the vitality of the central cities, that if we abandon these cities we actually have failed in many more ways than we would really I think desire.

I'd like to know if you will comment—and this would be Mr. Frieden, Mr. Dyckman, and Mr. Carter—on ways in which we can through probably regional and metropolitan planning achieve suburban access, and also have programs, maybe governmentally sponsored, for improving the quality of life for those who choose to live in the cities.

MR. FRIEDEN. I don't see any conflict between those two objectives. In fact, I think they are reinforcing in many ways. That is, for the success of programs like Model Cities or Urban Renewal, I think it is important that people now in central cities have some outlet and some other place to move because if the central cities had to accommodate most of the growth in black population that can be anticipated, these areas would become even more crowded than they have been in the past, and there would be great conflicts over land and space, and most of these plans, for example, call for building new schools which consume a great deal of land, for building new housing at low- and moderate-densities, and unless there is some place for population to move, and unless some of them want to move, I think it's going to be very difficult to carry out those central city plans.

MR. CARTER. I agree with what Mr. Frieden said and I might emphasize the point that we talk about the cost that the surrounding communities impose on the central cities. We usually talk in terms of people who work there coming in and taking up parking space and things of that nature. But the major cost probably imposed by the suburbs on the central city is that through discriminatory practices, by imposing the cost of housing and providing services for the lowest-income populations in the area they, in effect, to further their own exclusionary interest, require the central cities to absorb these populations which have the greatest needs for services.

Now, it's of interest that Mayor Stokes and others have been very interested in this problem of trying to find ways of increasing access to suburban areas for low- and moderate-income people, because if the suburbs are unwilling to pay, as they claim they are, commuter taxes in any significant amount, then they certainly in a metropolitan context have a responsibility to take on part of the growth of the area across economic lines. As they do so they lessen the density of the central city to some degree. Moreover, as they do so, they lose, I would think, part of what is one of the most difficult problems about getting support for

social programs which would benefit the central city, a lack of sensitivity on the part of people who are becoming the most politically and economically powerful in the country, the people who live in the suburban areas and who, by and large, have adopted a policy of "out-of-sight, out-of-mind" as far as the people living in the central city are concerned. As they come to recognize themselves the need for a variety of social programs, they are likely to be more supportive of such programs, and so it's not only more feasible to deal with the problems internally within the central cities to the extent that costs are being shared, the income level of the whole area goes up to the extent that people have a better opportunity for jobs, but then the suburbs should become more sensitive to broader social problems than they are today.

I might add to that, just to reinforce the point I tried to make earlier, that there is little prospect that at any time in the near future there is going to be a major change in the pattern of the central cities, and the developing political power of minority groups in those cities I think is going to increase, and I don't think a policy of suburban access that helps develop suburban access and has some of the benefits that I have indicated is contrary to that development.

MR. DYCKMAN. Well, I would say to this something which might be viewed as an extension of my earlier remarks. So long as we allow people to avoid welfare burdens, for example, and to spend a higher percentage of their tax dollar on education by moving to the suburbs, and as long as we have a local financing of both schools and, to a considerable extent, welfare and other programs, we are going to have obvious resistance to any export of the problem from the city to the suburbs and part of suburban residence. I think that's a very direct fact of life.

Now, there are a number of ways I can see we could get around that. One thing that would be extremely important would be to have Federal or State governments assume a larger role in financing education. I think immediately this would have a very strong impact because if it reduced dependence of the school on property taxes, it would reduce suburban privileges in primary and secondary education in my estimation, very much reduce it, and maybe just that educational policy would indirectly have an extraordinary influence on minority entry into suburbs.

A second point I would make at this point is that as circumstances now stand in the metropolitan area, we find that the welfare burdens, or what might be called broadly social service burdens, running from public hospitals right down through direct assistance of various kinds, are really being paid for by those people who live in the central cities who support such facilities, and increasingly they are being paid for by minority people even though the justification for having those services at all is that these are broadly social or public goods, that is, that they spill over on the whole population. The whole population has an interest in seeing people kept healthy so that epidemics are not created, and a whole variety of other purposes, and yet they are really paid for only by the direct residents of the central cities, and I think that these circumstances also ought to be changed; that is, increasingly we ought to

reduce the local responsibility for some of these services.

Now, it's true that in this case I wouldn't argue for State or Federal support but metropolitan support, and that's why I would like some direct election of metropolitan representatives of some kind so they would have some taxing power, because I think we are going to get hung up on taxation without representation if we don't elect somebody at the metropolitan level to stand for public office.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. Mr. Dyckman, although I suppose any of you could be responsive to this, suburbia appears to be an evil that we have wrought upon ourselves like the tolerance of adolescence which is now plaguing our campuses. One of my old colleagues says if we threw everybody out of school at 16 and made them go to work for 4 years and get rid of adolescence and then come back, we'd have better universities. I can't think of any interim treatment that parallels that for suburbia, but to indulge the American public or a segment of it in the luxury of running away from the city and living "in the country", we have permitted the establishment of highly specialized forms of government which I do not believe were ever really contemplated in the beginning days of this Nation. We have created political problems of a monstrous kind. We have allowed a mechanism to take root that has been responsible for indignities and injustices through a substantial segment of our population.

Now, when we sit around here and talk about this, we talk about umbrella types of substitutes, like metropolitan planning councils, which strike me as being very feeble kinds of approaches to the real problems we are talking about, which is you can't have that many governments, each of which is looking out for a small segment of the people and ignoring the responsibilities of people to other people.

Has anything been done—this is not just a statement, it's a question. You represent the scholarly community. You are three people whose special field is understanding this problem in terms of its governmental implications. You hint at it when you say maybe the Federal Government and the States should do more in running the schools, take this privilege away from suburbia. But did anybody ever really think in broad penetrating terms about a new concept of American life which would make suburbia as a social evil ineffective? We have talked about superficialities in legislation. Have you thought of it in the broadest sense, and where does your thinking lead you?

MR. DYCKMAN. On this count, I think there have been a number of very interesting proposals more or less of a radical nature. One which I think has an impeccable logic but great political difficulty was suggested by a long-time colleague of mine, Richard Burton, now at the Urban Institute. He proposed that we reorganize the Federal system since this is a problem of intergovernmental relations basically, and that we reorganize the Federal system and create some additional States. "We have created additional States," he said, "Let's create metropolitan areas as States," something which, of course, Mayor

Lindsay and a few other people have looked on with a certain amount of beneficence lately.

It seems to me that clearly what has happened in our Federal system is that we have functionally outgrown the classifications which we have set up in originally chartering a local government at the State level. So what has happened is that privileged sanctuaries have been created in the interstices of the system because the system frankly is not functionally adoptive. That's very clearly what I think has happened. Now, how you go about creating a better match-up of functional governmental organization with the actual operation of a social economy is another question. Certainly you could do it by creating a great constitutional convention or something again, or you could do it by using some existing governmental procedures, or in various ways, or frankly we can simply see a growth of metropolitan organization out of these rather feeble beginnings of councils of government into something which most public administration people would resist, namely, an additional layer of government superimposed functionally on the existing setup. All of these possibilities exist. As I mentioned earlier, you could do it using a lot of the existing powers as they have done in city-county consolidations, for example, and in a number of other ways. Annexation has long been used, say, in Texas. It's still used very liberally, although most other States no longer permit it. And a variety of other devices of this kind are going on.

Remember the suburban phenomenon is not new in this country. The suburbs have grown more rapidly than the central city since 1920, over 50 years now. This is not a new phenomenon in American life, and during this period we have developed this crisis, mostly because we have not made any suitable governmental change. We have tried various ways, by annexation, as I mentioned, and consolidation, but we haven't found the right formula for matching the governmental structure to this situation of growth of the cities.

Now, I don't want to belabor that point but I think that clearly in the present situation the suburbs are not evil, as such, but they are the response to very natural tendencies. One is the tendency of people with money to get the best deal they can get for themselves, as I tried to say in my introductory remarks, and by the fact that the Government has tried to serve urban development in the easiest possible way. That is, they have tried to serve it by building a lot of highways, opening up new land, by supporting individual homeownership on new land, and by a general extensive governmental policy. That has been our national urban policy for a long time in this country. It's not that we've had no policy. It's the policy we've had is the policy of taking the easy way out.

MR. FRIEDEN. I'd like to answer your question in a somewhat different way. It seems to me there has been some academic thinking, and thinking in other circles as well, about alternative approaches to the suburban problem. Yesterday and today we talked mainly about the problem of building new subsidized housing in the suburbs and the governmental consequences of that, and ways of trying to somehow intervene in the governmental system to get more of this built in the suburbs.

But the picture is somewhat different if instead of looking at the problem of building new housing, one looks at the problems of turnover in existing housing. New housing does get you into local regulatory powers zoning subdivision controls and building codes which are necessary to deal with—but new subsidized housing is a very small part of the market. We have had subsidized housing for about 35 years now, and even now less than 10 percent of the urban poor live in subsidized housing. And the thinking has proceeded along somewhat different lines and focuses on how can we help more people and poorer people get into the suburbs through the private market rather than through governmental construction and new housing.

Now, in fact, I think the Census Bureau presentation made it pretty clear that the white poor are making their way into the suburbs and they are not doing it primarily through subsidized housing. They are doing it primarily by buying or renting older suburban housing which, when you do it through the private market, proceeds rather naturally as a rule and it doesn't precipitate a great political debate because there isn't much the local community can do to stop that. When the issue is how to build new housing, the powers are all there and the opposition turns out in force.

The thinking about how to help people make better use of existing suburban housing leads to somewhat different directions. That is to subsidized programs aimed at existing housing, for example, rather than new construction, such as the lease program or that portion of the 235 program that could be used for renovating existing buildings rather than building new ones. Certainly much can be done to make these Federal programs work better on the stock of existing suburban housing which is very large when you consider all the housing built in the late 1940's in the suburbs, for example.

Another very significant approach to this has been the idea that was advanced for a long time in academic circles of housing allowances. That is, getting people money, letting people move to whatever housing they can find, or helping them to move rather than building the housing for them. That has now gone somewhat beyond the realm of academic discussion inasmuch as last year's housing act calls on HUD to mount an experimental pilot program of housing allowances. I know the main focus of these hearings is to be on new construction and the use of other subsidy programs. It would seem to me to be important to the Civil Rights Commission to be attentive also to the way in which housing allowance programs are framed, and particularly the conduct of the pilot program, to be sure that it does get sufficient attention to suburban access as a central feature of it.

MR. CARTER. I'd like to say it's not easy to be anything but pessimistic about alternatives including the alternatives that we have under discussion, because of the patterns that have developed over the past 30 years or so. You take the notion of going to a metropolitan form of government or some other regional form of government to include the suburbs, while it was true that then some regard would have to be given to the problems of minorities and the poor, you are still confronted with

the fact that the majority of the group have now established communities and will have under the one-man one-vote rule the dominant control of those metropolitan governments, and will be able to force a majoritarian policy rather than the shifting majority policy that we like to think is what constitutes the United States. One only has to look at the city of Chicago to see that it's not purely a matter of jurisdiction in terms of where housing is located and what kinds and choices are made as far as distribution is concerned.

Or you take the notion of a takeover of the support of education by the State government. Well, right now, to the extent the State governments do participate in the support of education in virtually every major metropolitan area, they provide more support to the suburban school districts than they do to the central city school districts. Again, given the notion of one-man one-vote, it's hard to see where the clout is going to come from to shift that pattern even if the source of funds were increased at the State level. It's supposed to be the last refuge of an academic to talk about values, and we are no more competent to talk about that than anyone else, but I seriously suggest that a large part of this problem is going to have to be to find ways to make people face up to their responsibilities, and some of the things we have been talking about will have or should have that impact.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. No questions.

CHAIRMAN HESBURGH. I have a question that I'd like to aim at any one of the three of you that would like to field it, although you have answered it to some extent already. I am reminded of the old story about the lady that had about 10 youngsters and she was fixing the youngest one up for church one Sunday and spent a lot of time scrubbing him and getting him dressed in a nice white suit and told him to go out and sit on the porch and stay put until she got ready. Meanwhile he got fascinated with a butterfly and ran off into the yard and did a nosedive into a mud puddle when he tripped. He came back in mud from head to foot, and she took one look at him and she said: "It would be easier to have another one than to fix you up."

I am wondering as a question of strategy, and given the fact that our population seems to be growing very quickly, and according to what demographic information I have been able to get will continue to grow quickly, in our strategy should we try to visualize what we might call, along your line of values, good communities, good communities that are representative of the good qualities of the Nation as a whole, with its plurality, its pluralism, I should say, and with its cultural variety, and should we try to form such communities—of course we all think immediately of places like Columbia or Reston, but we are going to need so much more housing and so many more communities and so much growth, would it be easier to concentrate on trying to establish the pattern or models of these places across the country so that you would have the living reality of people saying it's better living in this kind of community than a strictly ghetto community or a pure white

community, or whatever kind of community you like to think of, of those representative of American life today. It would seem to me we would have a lot more leverage starting *de novo*, a brand new ball game, if you will, with our own rules of what we think a good community would be, than the constant fight we have with white people living in the suburbs or the frustrations of black people crowded into a central city ghetto.

I am talking strategy now, not legalisms. Is there anything to that kind of strategy? Any one of you could answer this, or all of you if you care to.

MR. FRIEDEN. It would seem to me that one look at the demographic projections would persuade us about the urgency of thinking about some alternatives to the kind of suburban growth we've had before, because with the late 1940 baby boom reaching the early thirties very shortly, and being in the typical home-buying ages, we are very likely by the late 1970's to see another suburban boom of major proportions getting underway. So I think from that point of view it is certainly important to experiment with some alternatives.

My impression of the experience with most of the communities, though, is that Columbia and Reston are far from typical. The typical one is primarily an upper middle class subdivision with superior physical equipment to what you'd find in some other suburbs, but probably no greater diversity of population. It seems to me that we are going to have to confront some of the same issues to do that. To build more diversified new communities would clearly mean a major input of subsidy and probably substantial use of Federal leverage to bring about that result.

CHAIRMAN HESBURGH. If I could break in, don't we find that where we have had subsidy right away like in 235 or 236, what has happened, according to our recent report, is you've got a lot of new housing built in the suburbs for white people and a lot of fixed-up old housing in the ghettos for black people. Would more subsidy be more of that kind of action? It seems to me we are doing a gloss on the Scripture when we say the poor will always be with you except in the suburbs.

MR. DYCKMAN. If I could comment on that, Mr. Chairman, first I think the subsidy need not be so indirect as it's been in 235-236. We had some precedents in this country of building new towns for poor people, or for at least lower middle-income people, and the Rural Resettlement Administration in greenbelt towns were actually of this character. As a matter of fact, I was astonished the other day just to look at what the average income was in those towns at the time they were built, and it seemed to me it was in some cases even below the average income for the communities in which these were situated. Yet, most city planners would think that these were admirable, or more or less admirable, for their expressions of the community building of their times, and certainly they greatly influenced FHA practices, so much so that many of the contemporary subdivisions are kind of adulterated copies of that experience in the direct Federal building programs, the greenbelt towns.

Now, it seems to me that despite the loan guarantee incentives in the present New Town Act, it's very likely that large institutionalized investors will have to join in the new town building to create this kind of suburban picture that Professor Frieden mentioned, and if that's in fact the case I think our opportunity to control them vis-à-vis the question of integration is very good.

What I am arguing is that the economics of new town building, with its heavy cash flow requirement and what the builders call a front-end load, is so formidable that substantial subsidy of some kind has to be created, and when that subsidy is created in this new town building, then I think we ought to leap in with the integration requirement, and we also ought to insist that some of the new town building be for very modest income groups.

MR. CARTER. I'd like to add to that that I think any effective new town policy would have to include what the present act really doesn't include, and that's the ability to plan ahead and to acquire land ahead, which means financing, either by the Federal Government doing it directly, beginning to bank land by investment in land ahead, or making it possible for State governments to do it. So that when the land is then turned over for development they would have considerable control over the type of housing and other development that went into that property, so I think it would be possible to have much more control with respect to that than you have in the present development scheme.

CHAIRMAN HESBURGH. What seems to be emerging from all our hearings—St. Louis, Baltimore, and here at this one—is that there are all kinds of very real obstacles to any true concept of open housing. Some of them are psychological and have to do with racial tension, and some of them are economic and have to do with a person's income or the available nearness to sources of income, namely, jobs. Another seems to be the whole political question of how decisions are arrived at in central cities or in suburbs or in villages or municipalities of various types and sizes and economic structure. And it would appear to me that in one way or another, up to and including the press conference of Mr. Romney and Mr. Mitchell yesterday, and the President's statement a few days earlier, and the various glosses upon that statement by those who have commented upon it, that we are trying somehow to get at something we call either fair housing or open housing. I would think a kind of ideal, if I could just express it in the most simple kind of language, is that we would reduce the buying of a house to the same category as the buying of a car or the buying of a dress or a suit of clothes or buying a bar of soap—whatever. It's something that has a price and you pay it, and everybody that has the price can buy it if it's available, and it's presumably things that the public needs in any kind of economic system like ours and should be available. That's how people make money, selling at a reasonable profit to people who have a need for them and the price to pay for them.

Now, my question to you, with this little prelude, is we have had these laws, we have had these Executive orders. We are all, I think, agreed, up to and including the President, that they aren't working

very well. We don't really have fair and open housing in this country. Buying a house is not in the same category as buying a car. Anybody can buy a Cadillac that has the price of one, or can finance it. You could have the price or the means of financing a house in the neighborhood you want to live in but for many other reasons that we have discussed earlier you can't buy that house, or if you bought it, it would cost you a lot more money, or you have to go through various subterfuges to buy it.

What I am asking the three of you is: If you were in a position, which we are in, to suggest to the President and the Congress what kind of law is needed to make fair and open housing, keeping in mind all the laws we have so far and all the Executive orders haven't given us fair and open housing, is there any one simple factor you could suggest that would make up the substance of that type of law? I know it's a complicated question, and I am trying to make you bear in on what is really the thing that is keeping us from having fair and open housing and how it could be covered in substance by law.

Would each of you take a crack at that? As briefly as you can, because we have to adjourn in about 5 or 6 minutes and Mr. Glickstein probably wants to get a word in edgewise.

MR. FRIEDEN. I think the whole problem is that the housing system is such a complicated one that it defies a single type of solution. You have so many actors involved in the housing system that if you have racial bias operating at any one of a half-dozen different levels—

CHAIRMAN HESBURGH. You mean administrative levels?

MR. FRIEDEN. Well, I mean operating in local governments, in terms of the building regulations, operating in the banking system where financing has to come from, operating on the part of the builder or the marketer, and the failure in any one part of the system can sink the whole venture.

CHAIRMAN HESBURGH. But there is no way the law can cover that, you don't think?

MR. FRIEDEN. Well, I think the law can move in the direction of at least trying to simplify that process.

CHAIRMAN HESBURGH. The laws have been getting tougher, haven't they, as we move along?

MR. FRIEDEN. The coverage is broad, yes. Well, for example, I think the housing loan strategy does promise some simplification by cutting out the local government part of that process.

CHAIRMAN HESBURGH. But the local government seems to get stressed more and more. Even in the President's statement recently, he comes down strongly on the local government's part in all these decisions about whether they are going to have low- or middle-income housing.

MR. FRIEDEN. Well, it is necessary if you are talking about new construction, but if you give people money and let people go out and buy their own housing, the local government role would be minimized.

CHAIRMAN HESBURGH. Mr. Dyckman, would you like to comment on what you would do if you were sitting with the President and were

going to tell him what kind of a law he ought to have?

MR. DYCKMAN. I have two feelings about this. One is that the existing laws are rather general and they do allow very extraordinary latitude in effectuation. The problem is not so much to create another statutory power in this instance, as to produce more effective implementation of the existing powers. For example, the requirement for moderate- and low-income housing, under the 701 programs which were mentioned earlier, is not a very effective guide, as things stand now, to what housing has actually been built in communities. It's not an effective guide for several reasons. Very briefly, the plans themselves are not very effective. That is, the 701 plans do not constitute enforceable local regulation but are principally advisory. Secondly, member communities are not allocated and probably can't bring themselves to allocate some of the key elements in such a program; and, thirdly, they are not obligated again to comply by any particular restrictions. Here I would argue to the President that we ought to put together the machinery of the carrot and stick, the incentives and restrictions in the whole subject, not only of Federal but of State support and privileges for development, and a whole host of other considerations, which ought to be brought to bear coherently on some of these policy objectives.

The second point I would make just incidentally is that the problem of prejudice, discrimination, and the exclusionary tactics is largely felt at the local level with the local metropolitan areas. As a good example of that I will tell a story. Once upon a time when I was a young planner working for the Chicago Housing Authority, we had a famous case of public housing in Chicago, and there was a very large celebrated fight in the city council. When public housing came up for a vote, all the aldermen voted for public housing. Ed Kelly had told them to do it and they all got out and voted for public housing. But subsequently when we had to locate some housing projects, nobody wanted it in his ward.

CHAIRMAN HESBURGH. They had aldermanic rule there, too.

MR. DYCKMAN. Yes. Now, with this kind of situation we were stymied because we couldn't get anybody to take the housing that they had all voted for. And I think that's a kind of extreme localism in effect, parochialism, if you like.

Therefore, I would have as my second rule, so far as we are dealing with sensitive areas of this kind, that we take the heat off the local guy. We take the heat off by some Federal-State prescription in this matter which gives him a crutch to fall on to do something which may be unpopular.

CHAIRMAN HESBURGH. We did this in opening up public accommodations, certainly.

MR. CARTER. First, I agree with Mr. Dyckman that there are many things—and I am sure the Commissioners are pointing in this direction—that can be done, and one of the areas we haven't mentioned sufficiently I think is the area of getting the employers who are moving into the suburban areas into the act and making their affirmative action programs do much more about the provision of low- and moderate-income housing in those areas.

But I think if there was one thing where I think there is a close correlation between the reasons that are given for resistance—I'm saying reasons that are given as against trying to deal with all the psychological and all the other problems—and suburban access, it is the impact of bringing low-income people into suburban areas, the demand on public services, and the like. And at the same time, without regard to that issue, all areas of local and State government are crying for fiscal relief. It seems plain to me that these two should be married, and that if the Government has a national urban policy for balanced urban housing in metropolitan areas, fiscal relief should be linked to the development of plans that will in effect provide for this kind of housing throughout the metropolitan area. And it doesn't matter what subject matter you are dealing with. For example, in the environmental area I don't see why any area should get grants to deal with environmental problems when it won't face the environmental problem that is caused by density within the metropolitan area which they won't relieve because of their discriminatory practices. So it seems to me that it is perfectly clear that it's in the furtherance of announced Federal policy, in a whole variety of ways, to link fiscal relief under revenue sharing, or whatever device you want, to these kinds of requirements.

CHAIRMAN HESBURGH. You are really speaking to coordination of the total Government effect of being gotten out totally by all the programs with this basic consideration that there is going to be equality of opportunity.

MR. DYCKMAN. Right.

CHAIRMAN HESBURGH. Howard, do you want to say anything?

MR. GLICKSTEIN. No, I don't.

CHAIRMAN HESBURGH. I think we are already 5 minutes beyond our time, and I thank you gentlemen very much for coming and being with us today. We will be getting together at 1:30. We are now recessed for lunch.

TUESDAY AFTERNOON SESSION

JUNE 15, 1971

CHAIRMAN HESBURGH. Ladies and gentlemen, we are reconvening this hearing of the United States Commission on Civil Rights.

Our first witness this afternoon is the Honorable Arthur A. Fletcher, Assistant Secretary of Labor for Workplace Standards. Mr. Fletcher, we are delighted to have you with us again and would you stand first and I'll swear you both in.

(Whereupon, Hon. Arthur A. Fletcher and Mr. Gerald Paley were sworn by the Chairman and testified as follows:)

TESTIMONY OF HON. ARTHUR A. FLETCHER, ASSISTANT SECRETARY OF LABOR FOR WORKPLACE STANDARDS AND MR. GERALD PALEY, ASSOCIATE SOLICITOR FOR LABOR RELATIONS AND CIVIL RIGHTS, DEPARTMENT OF LABOR, WASHINGTON, D. C.

(Mr. Fletcher's prepared Statement appears on p. 1046.)

MR. POWELL. Would you each state your names and positions for the record?

MR. FLETCHER. My name is Arthur A. Fletcher, Assistant Secretary of Labor for Employment Standards.

MR. PALEY. My name is Gerald Paley. I'm Associate Solicitor for Labor Relations and Civil Rights in the Department of Labor.

MR. FLETCHER. I would like to begin by pointing out that Mr. Wilks, who is the Director of the Office of Federal Contract Compliance, is in transit trying to get back from New York City, and the moment he arrives he will join the panel.

MR. POWELL. Mr. Fletcher, briefly, what does Executive Order 11246 require of Federal contractors?

MR. FLETCHER. Well, it requires, of course, equal employment opportunities where Federal dollars are creating jobs or where Federal contractors have contracts with the Federal Government. The Executive order is drawn in such a fashion as to assure that there are employment opportunities provided for minorities.

MR. POWELL. With regard to Federal contractors having 50 employees or more and contracts in the amount of \$50,000 or more, are affirmative action plans required?

MR. FLETCHER. Yes, they are.

MR. POWELL. Would you briefly describe what affirmative action plans are and what purpose they serve?

MR. FLETCHER. Well, an affirmative action plan is a document—a statement designed to point up first the problems that a contractor might have in arriving at what we would call compliance as it relates to providing equal employment opportunity.

The heart of an affirmative action program as we have been administering it is the thing that we refer to as goals and timetables. What we really ask of the employer in this instance is that he first take a look at his existing labor force and determine where his problems might be in relation to how he's using minorities, the extent to which they penetrate the labor supply for the company, and then we ask him, of course, to relate the actual penetration factor, presence within the labor force as to the number within the total labor market—within his immediate labor market.

From there he then begins to look at the dispersion of minorities throughout his plant from the executive suite all the way down to the production line, the idea being that minorities should be amply represented in every area of employment within the plant and in addition to that that there should be some kind of ratio of utilization between the availability of minorities within the labor supply and the actual utilization of minorities within the plant.

This is spelled out in the affirmative action program. It's designed to target the problem areas and then to make commitments to correct whatever deficiencies that are in existence as a result of putting the affirmative action program together.

MR. POWELL. The President in his recent statement noted that with

industry moving to suburbs, housing can often be a problem with respect to minority employment. What do you think the role of the Office of Federal Contract Compliance is in dealing with this problem?

MR. FLETCHER. Of course, to begin with, the Office of Federal Contract Compliance is limited to dealing with the problem of actual employment. Now, we ask a contractor in the process of putting together his affirmative action plans to determine those things that stand in the way of his having the required ratio of utilization of minorities.

Now, in the process of uncovering that, if it should turn out that one of the barriers that stands in the way is housing, then under Order No. 4 we ask the contractor to address himself to remedies. In this instance, we ask him to do a variety of things all the way from actually—and we can't impose this on him, I think I should make this very clear, but we go as far as we can to impose it and we don't apologize for it—

MR. POWELL. But you can make that a condition if he is doing business with the Government, can you not?

MR. FLETCHER. Well, not according to the counsel in our office. They indicate that we do not have the right to impose upon the contractor these particular factors.

MR. POWELL. Well, suppose, Mr. Fletcher, that a contractor plans to move from a central city to a suburb with a low minority population. Does he have any obligation to determine the effect that such a move would have on his minority employment, and if he so determines, what must he do about that?

MR. FLETCHER. Well, certainly we ask of a contractor during the period of the preaward or if he's a Government contractor and he's preparing to move, we ask him to do the same kind of planning for minorities that he does for his entire work force. By that, we mean that when a contractor gets ready to move he does any number of things, from determining the cost of the land, the location of the land, the availability of manpower or human resources we like to say, and schools and any number of things. It's a very sophisticated planning process involved in moving a plant.

Now, we insist at this particular time that the companies do the same thing or extend their planning to include the problems that minorities will have. We ask them first to take a good look at what they have on the payroll and what opportunities will the minorities who are already on the payroll—what opportunities will they have to maintain their jobs and to find adequate housing and everything else that goes along with moving into the neighborhood. We ask the contractor to look into that and to determine what problems he might have. We ask him to address himself to any problem that's uncovered. If it turns out that there isn't adequate housing, then we ask that contractor to make the necessary kind of plans to provide that kind of housing.

MR. POWELL. Mr. Fletcher, you mentioned that your Solicitor's office said that you don't have the power to require affirmative action where housing is an obstacle to minority employment. You operate under Executive Order 11246, do you not?

MR. FLETCHER. We sure do.

MR. POWELL. Now, with respect to that order, does it contain restrictions which prevent the Office of Federal Contract Compliance from requiring contractors to take affirmative action to remedy minority underutilization caused by housing patterns?

MR. FLETCHER. It is my understanding that it does. I would be happy to have the gentleman from the solicitor's office address himself to that question.

MR. POWELL. Let me question you a little bit more pointedly. With regard to employment of minorities in professional and management positions, Order No. 4, which is one of the orders implementing Executive Order 11246, states that Government contractors must take special corrective action where lack of access to suitable housing inhibits such employment.

Does this mean that the Office of Federal Contract Compliance has no authority to require contractors to do anything about housing problems of lower-level employees and doesn't it suggest that you do have some power to do something about housing when it's an obstacle to minority employment?

MR. PALEY. You're quite correct. Order No. 4 does require, as you are well aware, that the contractor take affirmative action. It specifically, as part of Order No. 4, takes into account the problem of housing.

MR. POWELL. Does it make a distinction between housing for professional and management employees and the other employees?

MR. PALEY. The reference in the order is to professional and management, but as the order has been interpreted by the Office of Federal Contract Compliance it's interpreted to include positions beyond simply professional and management level.

MR. POWELL. But you do agree that the order does require affirmative action?

MR. PALEY. The order does require affirmative action and, as part of the affirmative action program if housing is a problem, certainly we would expect the contractor to take affirmative action with respect to that.

MR. POWELL. Well, as a part of that affirmative action program, could a contracting agency require a Government contractor to establish a housing office to assist minority employees or prospective employees to find housing?

MR. PALEY. This is part of the program that we've developed and in many situations companies have set up housing coordinators within the company to deal with the problem of assisting minority people to find adequate housing in the immediate area.

MR. POWELL. Could Government contractors also be required to obtain a pledge of open housing from all real estate brokers and apartment owners used by the contractor's housing office?

MR. PALEY. This is part of the requirements that we found in some of our existing programs and part of the approach that we've developed to deal with this particular kind of problem.

MR. POWELL. Couldn't a Government contractor, in a case where

housing was a problem and they couldn't resolve it, refuse to move to a suburb if it failed to adopt a fair housing ordinance?

MR. PALEY. Well, we've never run into a situation like that. Our basic position is that a contractor must take an affirmative position with respect to fair and open housing whether it be attendance at a zoning meeting or working with private agencies to deal with the situation of housing for minorities in a particular area.

MR. POWELL. Well, in an instance where a Government contractor was going to move to a suburb that had a housing problem either because of an inadequate supply of low- and moderate-income housing or an ineffective fair housing ordinance or a combination of both, couldn't the Government contractor be required to develop programs aimed at obtaining public support for such housing?

MR. PALEY. That's right. This has been our position that we would want the Government contractor to take a position, as I said, with respect to either a public or private agency whether it be zoning hearings or what, to deal with the problem of equitable housing in that area.

MR. POWELL. How does the Office of Federal Contract Compliance know when a Government contractor is going to move to a suburb where such a move would present a problem from a housing standpoint?

MR. PALEY. I have no specific information on a situation where OFCC was forewarned that a Government contractor was moving to an area where housing would be a problem for minorities.

MR. POWELL. Could you establish criteria requiring Federal contractors to make an analysis of such problems and include that as part of the information provided to contracting agencies and to the Office of Federal Contract Compliance?

MR. PALEY. I assume that this could be incorporated into a revised Order No. 4.

MR. POWELL. Well, Mr. Fletcher, do you think that such implementing criteria should be set up in your ongoing programs?

MR. FLETCHER. The direct answer to that is we already have a task force working on what we would call a draft amendment to Order No. 4 that addresses itself to that particular problem.

In reference to a question you asked earlier, I might point out that the way that OFCC, the Labor Department Office, would be put on notice that a company is moving would actually come from the agency level, the agency that has the prime interest where that particular firm is concerned. They would be the first to know and not necessarily our supervisory staff.

Here, again, the new amendment that we're drafting will take care of that so we can be put on notice right along with the agencies and make it a requirement to do so.

MR. POWELL. But the Office of Federal Contract Compliance's role with respect to Government contracting is a coordinative one, is it not?

MR. FLETCHER. It's a coordinative and a supervisory role.

MR. POWELL. And the contracting agencies have the responsibility

in contracting with private contractors to see to it that 11246, the requirements of it, are carried out?

MR. FLETCHER. Absolutely right. But, in fact, I want the record to clearly show that the persons in the OFCC setup, the contracting compliance process, those who have first contact at the real grassroots level, turns out to be the agency compliance officer and not the compliance people at the supervisory level. We are really not in the field as such. It is the agency's compliance officers that are in the field and consequently are where the actual contact would be made.

In other words, to put it clearly, if, let's say, a defense contractor were changing communities, it would be the Defense Department's compliance agent would know that first and, in fact, unless we devised a way—which we will be doing—that will require that he puts us on notice that the company has moved, there's a real chance that information would never get to us. That's the point I'm trying to make.

MR. POWELL. Now, with respect to this task force you mentioned, can we anticipate a change in policy in regard to obtaining information necessary for you to evaluate whether Federal contractors are carrying out their responsibilities with respect to housing problems where they are problems with respect to moving to the suburbs?

MR. FLETCHER. We're making the draft with that particular thought in mind. Our draft will go to the Solicitor's office and be evaluated by them and they'll tell us what they think it is we can do and what it is we can't do, and then we will amend on that basis.

MR. POWELL. Mr. Fletcher, Section 808(d) of the 1968 Civil Rights Act provides that executive agencies must administer their programs relating to housing and urban development to affirmatively further fair housing.

Has the Office of Federal Contract Compliance been given any instructions from the Department of Labor with regard to its obligations under this section?

MR. FLETCHER. Our responsibilities stop short of agency type compliance. In short, I think it's the Civil Service Commission that would have that responsibility. That part of Executive Order 11246 as well as the civil rights responsibility under the Civil Rights Act does not include the Office of Federal Contract Compliance, where the move of a Federal Agency is concerned. That's my understanding.

MR. POWELL. Now, you administer programs relating to employment—

MR. FLETCHER. On the part of Federal contractors.

MR. POWELL. Mr. Fletcher, under last week's agreement between the Department of Housing and Urban Development and the General Services Administration, GSA in consultation with HUD will require that the movement of Federal facilities to suburbia will be accomplished only under circumstances assuring that there either is or will be an adequate supply of low- and moderate-income housing available on a racially nondiscriminatory basis.

Doesn't the Office of Federal Contract Compliance have an obligation to see to it that Government contractors moving to suburbia be

required to take similar steps?

MR. FLETCHER. I would certainly think so. I can't see how the Office of Federal Contract Compliance can require more of private contractors than—or less, rather—than we are requiring of Government Agencies, and I think it would also be fair to say that the guidelines that we'll be working out will certainly parallel the—will be at least identical to those that are being worked out between GSA and HUD to deal with Federal Agencies.

MR. POWELL. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Thank you very much. Dr. Ruiz, would you like to start out today?

COMMISSIONER RUIZ. Yes. I was a little bit concerned about your initial statement wherein you said that you were limited to problems dealing with employment utilization of minorities. My questions are now going even to that particular thing that you stated you were limited to.

I am very much concerned with the fact that McDonald Douglas both in California and in Missouri, as well as General Dynamics Corporation in Pomona say: "Our affirmative action plans and programs are secret."

Now, I have found that the people most interested in seeing that an acceptable affirmative action plan and program exists have for practical purposes had no access to it. Is there some regulation that prohibits concerned employees within the actual plant, in order to enable them to be placed upon a bargaining basis of some kind, from receiving the affirmative action program and its analysis and what is being done and how it's projected into the future?

MR. FLETCHER. I yield to Mr. Paley.

MR. PALEY. Our position has always been that it's a voluntary matter for the employer to make his affirmative action program available. As far as the Office of Federal Contract Compliance is concerned, we have taken the position with Government contractors that the programs filed with us are confidential but if the contractor chooses to make them available certainly he has every right to do so.

COMMISSIONER RUIZ. Now, why have you taken the position that it's confidential? I find nothing in the law, sir, which prohibits a contractor from disseminating information relative to his contractor's compliance status. I have examined Chapter 60 of the affirmative action programs and more specifically Subsection 221 entitled "Dissemination of Policy", and I find no prohibition against giving full information.

Now, why has your Department said this is confidential? How can employees bargain in good faith if they don't have the information, if they have to get in touch with a local agency who says: "I have this information. I have shot it to Washington," and then they can't get it from him because Washington hasn't answered the local agency.

MR. PALEY. We have never taken the position that this information is not available, but, as I have said, when the information comes to the Office of Federal Contract Compliance our position is that this information is confidential. If the contractor chooses to make the program

available to his employees there's certainly nothing that would prohibit it.

COMMISSIONER RUIZ. What is the confidential part of it if the regulations say the following, for example, "required utilization analysis and goals. In determining whether minorities are being underutilized in any job category all of the following factors must be taken into consideration:"—the question of forewarning was brought up a little while ago— "(1) The minority population of the labor area surrounding the facility." Is that a confidential privileged matter?

MR. PALEY. No.

COMMISSIONER RUIZ. "(2) The size of the minority employment force in the labor area surrounding the facility." Is that a matter of privileged confidence or a matter of statistics?

MR. PALEY. I think you're really misunderstanding my response. We've never taken the position that—

COMMISSIONER RUIZ. You said that it's confidential?

MR. PALEY. No. I said that the information in the hands—the program in the hands of OFCC is confidential as a Government Agency. We've never taken the position that the program in the hands of the employer is necessarily confidential. There is a distinction.

COMMISSIONER RUIZ. What happens if the employer does not give the information to the employee?

MR. PALEY. What happens?

COMMISSIONER RUIZ. Yes.

MR. PALEY. Nothing.

COMMISSIONER RUIZ. How can the employee get that information?

MR. PALEY. As I said, it's the decision of the contractor whether or not he's going to make the program available to his employees.

COMMISSIONER RUIZ. Now, this affirmative action that we're talking about and for purposes of getting compliance therewith requires that your office cooperate with the employee and this is a very negative reaction that I'm getting at the present time. Employees want to find out the availability of promotable minority employees within the contractor's organization. The contractor says: "I won't give you this information." Your office says: "We won't give you this information."

Is that affirmative action?

MR. PALEY. Our program, of course, is designed to best accomplish the purposes of the Executive order, and it's been the policy of the Office of Federal Contract Compliance that the best way that we can work with contractors in establishing acceptable affirmative action programs is by keeping a pledge of confidentiality.

COMMISSIONER RUIZ. But the law requires you, sir, and the law requires the employer and contractor, sir, with a great number of matters that are specifics here, and you say that confidence is required in order for them to comply with this to get their cooperation where the law says they must do it?

MR. PALEY. No. I said that information coming into the hands of the Office of Federal Contract Compliance is confidential. Not only do we work in establishing acceptable affirmative action programs but, as

you're well aware, we also investigate and bring administrative proceedings against contractors who are not complying.

COMMISSIONER RUIZ. How many have you brought, let us say, in southern California within the last year?

MR. PALEY. In southern California, I'm afraid I don't have any information on that.

COMMISSIONER RUIZ. You haven't brought any, have you?

MR. PALEY. I don't know.

COMMISSIONER RUIZ. How would you straighten this out with respect to getting cooperation and giving you information from employees within particular plants concerned with their well-being and with their welfare? What would you like to do? Or do you want to still keep it confidential in order to get the employers' cooperation?

MR. PALEY. It's not just a question of getting the employers' cooperation. When we go out and investigate a particular Government contractor, the information that we obtain could possibly be used against that contractor either in an administrative proceeding or a court action. So we feel it's essential from the point of view of investigating and doing an adequate job of investigating Government contractors that this information remain confidential.

COMMISSIONER RUIZ. Are you acquainted with the General Dynamics problem in Pomona, California?

MR. PALEY. No, I'm not.

COMMISSIONER RUIZ. May I contact you directly with respect to that to get your cooperation?

MR. PALEY. Yes, you may.

COMMISSIONER RUIZ. Because we have not been able to utilize your Department to affirmatively cooperate.

MR. PALEY. I'd be very happy to talk to you about that.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN HESBURGH. Mr. Paley, if I might interject just for a second, your capacity is that of Counsel, isn't that correct?

MR. PALEY. That's correct.

CHAIRMAN HESBURGH. In other words, you don't establish the policy. Who does establish the policy of the confidentiality?

MR. PALEY. Well, basically, it's a departmental policy.

CHAIRMAN HESBURGH. Who establishes the departmental policy?

MR. PALEY. Well, in this situation it's a policy really established by the Office of Federal Contract Compliance under the general departmental regulations having to do with the availability of information coming within the Department. There is nothing that unusual about this regulation.

CHAIRMAN HESBURGH. But who specifically establishes this policy that you're operating under now?

MR. PALEY. At the present time it's the Office of Federal Contract Compliance.

MR. FLETCHER. Under my guidance and direction.

CHAIRMAN HESBURGH. So, really, this is not likely to be changed unless Mr. Fletcher were to change it?

MR. FLETCHER. Right.

CHAIRMAN HESBURGH. I just wanted to get that point down because I think it's important to understand the different roles and the different responsibilities.

VICE CHAIRMAN HORN. Let me follow up on this if I might. Number one, when was this particular policy established that the affirmative action filed with OFCC would remain confidential and could not be released? Was this from the very beginning of OFCC's handling of these plans?

MR. FLETCHER. It was a policy that I inherited when I came into office.

VICE CHAIRMAN HORN. Right. I assumed you had inherited it. I take it it was established on recommendation of the Solicitor of the Department of Labor?

MR. FLETCHER. It was.

VICE CHAIRMAN HORN. Or had OFCC recommended to the Solicitor that this is the way they would like to handle it?

MR. FLETCHER. After some long and detailed discussion, my original desire was to make as much of the affirmative action program, if not the whole document, other than confidential. It turns out that we do in the process of establishing goals and timetables, we do get to see a contractor's confidential payroll. Consequently—in fact, we insist that we have an opportunity to see these things in order to adequately set goals and to know whether based on job descriptions and other things that minorities are not only being promoted but that it's not just a title promotion but actually a promotion in terms of increased responsibility and pay.

We've had company after company say to us that: "If we open up our confidential records to you, especially in this contract compliance business, if we open up our confidential pay scales to you, for an example, and it becomes public knowledge, then we've opened the door for other firms who are in our business and who might also be contracting with the Defense Department to raid us of some of our better people." So they've insisted that certain aspects of the affirmative action—certain aspects of the information we're getting is, in fact, confidential.

Now, where you cut the line off and say we can publish this much of it and keep that much out, we haven't made that decision yet.

VICE CHAIRMAN HORN. Well, this is the point I'm leading to because I realize it's established Department of Labor practice, especially to the Bureau of Labor Statistics, that where they have a reporting information program, that data as to a particular firm involved has always remained confidential, and there might be an industry summation.

But I'm wondering, in this area, I don't think we're really asking that you reveal your investigative reports or that you reveal the confidential payroll aspects in specifics. I think what Commissioner Ruiz and the rest of the Commission is concerned about is the matter of getting as much data about the goals and desires of the company on the public record where it can be subjected to employee scrutiny and press scrutiny and perhaps this Commission's scrutiny and other Federal Agen-

cies involved on the whole basis of the right to know. That means you can come to an intelligent decision.

Is there any thought, Mr. Fletcher, that there might be a way to work this out where, say, as you do in the Pentagon when you send a transcript over to be cleansed, if you will, of sensitive matters—some of it's released and some of it isn't released—is there any possibility of releasing part of the affirmative action plans so people can pass judgment on it?

MR. FLETCHER. I think there's a possibility but no policy decision has been made on that at the present time.

VICE CHAIRMAN HORN. Where would that policy, as Father Heshburgh's question suggests, originate? With your office essentially?

MR. FLETCHER. It would originate with my office and Mr. Wilks, my being the principal who would make the recommendation, and from there, the Solicitor's office reviews what it is we intend to do and then the Under Secretary and then the Secretary and then finally the decision is made. Sometimes I'm sustained and sometimes I'm not.

VICE CHAIRMAN HORN. Let me ask you this. Do you feel this would be a wise policy in the interest of furthering affirmative action to put as much data as possible in the public record?

MR. FLETCHER. Yes, for a number of reasons. One, in the kind of work that we're doing, the kind of monitoring that's required, at the moment we just do not—when I say “we” I'm talking about the whole compliance program now—we just do not have the manpower that is needed to do the day-to-day type monitoring that is required if, in fact, these affirmative action programs are going to work or if the so-called Philadelphia Plan is going to work. It actually needs daily monitoring.

Now, one way to get assistance with the monitoring of it is to be able to make available enough information to those who are in the plants. And in many instances I can appreciate the dilemma because in many instances the first line of relief so to speak as a result of an affirmative action program is going to come to those who are already on the payroll. In terms of being upgraded and any new opportunities that are built into an affirmative action program it will probably go to those already on the payroll, and certainly it would be of benefit to be able to put them on notice as to what's supposed to happen.

But, again, to be candidly frank with you, that policy decision hasn't been made because there's legal problems with it.

VICE CHAIRMAN HORN. All right. Now, let me ask Mr. Paley this question then. What is the present legal basis by which this information is denied? Is this under an exception specified in the Freedom of Information Act?

MR. PALEY. I think most of the situations where we've been involved the exception would be that the matter was one that would be under investigation.

VICE CHAIRMAN HORN. Well, suppose the matter isn't under investigation. Suppose they merely have filed the plan, the contract has been awarded, and no queries have been raised. Could not that plan be released? It's not under investigation.

MR. PALEY. Well, I think you've got a twofold problem there. Besides the legal problem on the Freedom of Information statute, it's still the policy consideration that by and large we have dealt with our contractors on the basis that these plans have been submitted to us on a confidential basis. And I think for us to immediately take a position at this point that the programs were no longer confidential would be to compromise the position that we have taken before.

VICE CHAIRMAN HORN. But I'm still trying to get at your authority under the law. You're basing it on, I take it, on a Freedom of Information Act exception. Is this correct?

MR. PALEY. Well, I think if the issue was raised, depending on the particular circumstances involved, certainly this would have to be one of the considerations.

VICE CHAIRMAN HORN. Is there a Solicitor's opinion on this matter that could be furnished to the Commission to give us the legal basis for this authority that some would say you really don't have, reading the affirmative action sections of various Civil Rights Acts?

MR. PALEY. I don't think there is one. Certainly there hasn't been one since I've been with the Department.

VICE CHAIRMAN HORN. How long have you been with the Department?

MR. PALEY. Just about a year.

VICE CHAIRMAN HORN. So this is again the policy you inherited that was made when, in 1968 or earlier—'65?

MR. PALEY. I would say thereabouts.

VICE CHAIRMAN HORN. Well, let me suggest that our General Counsel pursue this and I would like at this point in the record to have inserted an opinion from the Solicitor of Labor as to the basis upon which they refuse to release the affirmative action plan. It seems to me you've got to peg it either on the Freedom of Information Act or not, and I'd just like to know what your legal basis is. It can't be executive privilege, I assume, going back to 1789.

MR. PALEY. No. I'd say if the question was raised, I would assume it would be related to the Freedom of Information Act.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN HESBURGH. I think this has been interesting, this particular section we've been discussing, because the point we run into everywhere is that there are simply not enough people around and enough hours in the day to get compliance. People set up a program, on the basis of that program, affirmative action program, they get a contract and once the contract is awarded everybody forgets about it and goes on to the next one, because there just aren't enough people to look at every single affirmative action program and monitor it.

It would seem to me as an innocent bystander—innocent legally at least—that you would have the best monitoring in the world of every affirmative action program if those affected by it knew what it was and I can't see any reason in the world why that shouldn't happen and happen very soon, and I suspect such a recommendation may come out of this hearing.

Mr. Mitchell?

COMMISSIONER MITCHELL. No questions.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Fletcher, one of the problems that we have encountered is that—well, at least I have the information, maybe mistakenly, that no contract has ever been terminated by reason of the violation of the civil rights provisions by a contractor. Is that correct?

MR. FLETCHER. That's right.

COMMISSIONER FREEMAN. Well, in this situation, is it not also true that contractors, Federal contractors, Government contractors, over the years have been in violation, continue to be in violation, receive no sanctions, and that there probably is little hope that the condition will change unless there is some additional protection given to assure compliance?

MR. FLETCHER. Well, you're partially right. I would like to give my views on that.

I think that it's important to understand that up until the present this is the first time that an effort has been made to shape the affirmative action concept so that it satisfies procurement law. I think the reason why up until this point a contractor has not been suspended or a contract hasn't been suspended or canceled or debarred is because of the voluntary nature of many of the programs.

I think we're moving in the direction of getting both affirmative action programs in the production industry and certainly affirmative action programs in the construction industry so that they do, in fact, satisfy the elements of contract law so we will know what it is the contractor has breached.

What I'm saying is this—and I'll use the so-called Philadelphia Plan for just a moment to try to clarify myself. The Philadelphia Plan not only asks for goals, targets, and timetables, but the Plan itself is a contract covenant. It's a binding part of the contract. Therefore, when we go in to do a compliance review on a contractor who's covered by the Philadelphia Plan, we know exactly what he has committed himself to do as a contractor. For an example, if he has agreed that a certain number of the manhours of work to be done by plumbing contractor 9 to 12 percent of those man-hours of work will be shared with minority workers, then we go in and look at the payroll time, the amount of man-hours expended, the number of those man-hours expended by minority groups, and at that particular point we know whether that contractor is or is not in compliance.

Now, as a result of doing it this way, we have moved about as close to getting a sanction under the debarment suspension cancellation concept as we've come. We expect to have a contractor debarred under the Philadelphia Plan in the Philadelphia area. I think it's Edgely Air Products. This is a contractor who signed as a part of a binding part of his contract to see to it that a certain amount of man-hours were worked by minorities. They weren't, and the issue was whether he made a good faith effort to do that. The records show that he did not make a good faith effort to see that those amount of man-hours were

shared, and so for the first time we're really in a position to say here is what fair employment would have amounted to and here is what he didn't do and this is what he breached.

Now, until the compliance program gets into that kind of posture all the way you're going to have a tough time cancelling a contract.

COMMISSIONER FREEMAN. But, Mr. Fletcher, the Executive order includes another provision; that is, a prohibition against racial discrimination.

MR. FLETCHER. Yes.

COMMISSIONER FREEMAN. Let's go to the construction trade. If a building is constructed, not one brick is laid by either a black person or Mexican American or any minority, no plumbing is done by any person, no iron work—not a single black person has participated in the construction of that building, then what do you have to find or know to find out whether there has been racial discrimination on the part of that contractor?

MR. FLETCHER. The lawyers tell me that there has to be a binding commitment in the contract, not just a vague commitment to be a fair employment practice employer, but a binding commitment in the contract that a certain number of man-hours are going to be worked by a given minority, and if that is there then you've got evidence to do the cancelling. If it isn't there, you've got a big argument as to what he was committed to do to begin with.

COMMISSIONER FREEMAN. As a lawyer, let me tell you that the contracts have been in existence and that provision against racial discrimination has been in governmental contracts for more than 15 or 20 years, and the provision also that the contract can be terminated by reason of the violation has been there. So I'd like to know if the lawyers for the Labor Department have considered this provision.

MR. FLETCHER. The lawyers for the Labor Department have told me to work out the standards and put them in the contract as a measuring device for what compliance is, and then monitor those standards to see to it that they're being satisfied. If they're not, we have the grounds for actually going on and cancelling, suspending, or debarring a contractor. If we don't have those standards so that we can demonstrate that something has been breached, then we've got a problem.

COMMISSIONER FREEMAN. Would you have information as to what the lawyers would tell you if the contractor had failed to provide any curtains for any of the windows and the specifications included it?

MR. FLETCHER. Ask the question again?

COMMISSIONER FREEMAN. Would they consider that as grounds for a breach?

MR. FLETCHER. Ask the question again, please?

COMMISSIONER FREEMAN. If the specifications required that the curtains which we see around had to be provided by the contractor and the contractor failed to provide those curtains, do you know whether the lawyers would include that as a violation and subject for breach?

MR. FLETCHER. I would assume that if it were a binding part of the contract they'd say so.

COMMISSIONER FREEMAN. Are you suggesting that the civil rights provisions are in some question as to whether they are binding, that there's a different balance given to the civil rights provision than to the bricks and mortar?

MR. FLETCHER. No. Let me point to another area that I'm responsible for and that happens to be safety standards. Now, here again, we work out the standards for what amounts to safety in a workplace and when we go in to do a safety compliance we're measuring the degree of safety based on those safety standards. If they're being complied with, then that's a safe firm to work in. If they're not being complied with, then it's not a safe firm to work in.

What I'm trying to do with the compliance program as far as the contract compliance program for minorities is concerned, is to put it in identically the same posture as we do with the minimum wage compliance which is another area that I have, and where safety compliance is concerned which is another area I have. I'm trying to pull them up so that there's no excuse or no gap between the two. We work from standards for one area and I'm trying to establish the standards so that we can cover the contract compliance area the same way.

COMMISSIONER FREEMAN. So we still are far from standards that your office considers acceptable or specific enough to cause a termination?

MR. FLETCHER. In all fairness, I think my office or I feel that my office has backed me to the extent that they have allowed that we put or recommended, gone along with the idea that we put the numerical goals and the timetables in the contract, and we've had some court tests on it, certainly at the district level in Philadelphia and the appellate level and we've been sustained. And we feel that we've opened new ground and we will move as fast as we can but certainly cautiously enough to avoid getting any adverse decisions against us, so that we will have established the concept so that it can be really implemented. We're moving deliberately cautiously.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Dr. Horn?

VICE CHAIRMAN HORN. In other words, as I gather your testimony, you're trying to get away from the rhetoric of mere phraseology that we have passed in numerous acts of Congress and Executive orders, and you're trying to get down to specifics so that the results can be monitored and really have a basis for action.

MR. FLETCHER. Yes.

VICE CHAIRMAN HORN. Let me just say, Mr. Chairman, I'd like to commend Mr. Fletcher on the efforts he's made. I think I first met you back in around 1964 when you had an early commitment to doing something in this field in Oakland, California, and later went to the State of Washington where he ran for Lieutenant Governor, and I know that your heart's in the right place and you're trying to get some action in this sort of maze of legality and rhetoric which you confront yourself with.

MR. FLETCHER. Thank you.

CHAIRMAN HESBURGH. Mr. Ruiz?

COMMISSIONER RUIZ. Mr. Chairman, may I ask one or two more questions on this?

CHAIRMAN HESBURGH. We have a short time and we have some more questions from our Staff Director, but go ahead, Mr. Ruiz.

COMMISSIONER RUIZ. I was interested in the statement to the effect that the reason this matter was not available was because it was of a voluntary nature and that there has to be an agreement even with respect to objectives and goals and other things with relation to the affirmative action plans and its exposition. Now, did your attorneys not tell you that the law is a binding part of the contract and is read into the contract irrespective of whether reference is voluntarily made to the law or not?

MR. FLETCHER. I'm not quite sure I understand your question, sir.

COMMISSIONER RUIZ. I have before me the rules and regulations which are in great detail, in much more detail than usually rules and regulations are written, on affirmative action, which rules and regulations even are so detailed that they constitute standards. That's how detailed they are.

MR. FLETCHER. Yes.

COMMISSIONER RUIZ. As to what exists, what will be done, how it's computed, how it's utilized and everything.

Now, under the law, have your attorneys informed you that these rules and regulations are made a part of every contract without any reference in the contract to the rules and regulations?

MR. FLETCHER. The direct answer to the question as to whether they have informed me or not, the answer is no, they have not.

COMMISSIONER RUIZ. Will you ask them that question?

MR. FLETCHER. I certainly will.

COMMISSIONER RUIZ. Thank you.

MR. FLETCHER. I'd like to point up one more question with reference to this confidentiality problem. We do attempt with a degree of success to coordinate our efforts with EEOC and it is my understanding that some of the information that they have as it relates to their orders, it's confidential. There's information that we ask of them and they say right away that if you want to make this public then we've got problems with letting you have it.

Here again is one of the things that's stood in the way of coming down with a hard, fast decision on where confidentiality begins and where it ends.

COMMISSIONER RUIZ. Well, I wasn't speaking with respect to that Agency that has no enforcement policy.

MR. FLETCHER. I know, but we use their information in many instances to help us document affirmative action programs. We use some of the facts and information that they have.

COMMISSIONER RUIZ. I am only speaking with respect to information given to you, sir, by contractors that are receiving Federal monies.

MR. FLETCHER. All right. Point made and understood.

CHAIRMAN HESBURGH. I only have one question, Mr. Fletcher. We

keep hearing about the Philadelphia Plan and some people view it with some skepticism. Has there been any computation of how many jobs have been made available to minorities under that Philadelphia Plan?

MR. FLETCHER. The last report we had indicated that minorities were getting at 12.2 percent of the man-hours worked. Our investigation showed that at the time we imposed the Plan in the five unions involved—or the five crafts involved—minorities were getting 2 percent of the man-hours worked. They're now getting 12.2 percent. That can be broken down into about 75 journeymen, full-fledged journeymen, and 35 trainees who are actually working at the job site.

The point I should make also in reference to that question is the first line of relief with the Philadelphia Plan turns out to be those minorities who were already in the construction industry and who could have been upgraded. For an example, many of the crafts, once they understood that the courts were sustaining what we had imposed, began then to look into the laborers' union, not outside on the sidewalk and bring new people in, but looked into the laborers' union where there have been helpers all along and persons who have been helping long enough to actually know how to do it; and they have brought those persons in under in most instances a work permit.

In addition to that, there have been minorities in the Philadelphia area who've worked in maritime electricity and maritime plumbing but who were never given an opportunity to work in the commercial industry. Now, the difference in pay between a maritime plumber and a commercial plumber for an example is quite considerable. So here again, the Plan, rather than bringing new people into the industry, it gave those already in the industry an opportunity to be upgraded.

Now, the real benefits in terms of bringing more into the industry will begin to come in the second and third year. By that time they will have already used up, we're hoping, those who are qualified or partially qualified and thus would be upgraded from within. We expect the third and fourth year of the plan to be those 2 years that will really begin to bring new people into the industry.

CHAIRMAN HESBURGH. How many localities have the Philadelphia Plan now? How many different localities have the Philadelphia Plan now or ones similar under different names?

MR. FLETCHER. We have imposed plans in Philadelphia, in Washington, in San Francisco. We will be imposing plans in two other cities within the next—one this week and the following week I believe.

CHAIRMAN HESBURGH. Chicago has its own plan, I understand.

MR. FLETCHER. Chicago had a so-called hometown solution that fell short of being a solution.

CHAIRMAN HESBURGH. Is it in your plan that this will be spread over the whole country eventually?

MR. FLETCHER. Well, yes. If I had my way, sir,—and I'm trying to have it—we would be imposing plans much more extensively, especially since the appellate court decision. My reason for this is as follows: I think it's awful hard to get those who are covered by the Executive order to voluntarily comply with a law they don't think can be

enforced. Now, voluntary compliance is great when you've already demonstrated that you can enforce the law. But when there's no indication—as one of your panelists has already asked: “Have you ever cancelled a contract?” Well, the answer was no. Then it's pretty hard to convince a universe out there that you can enforce it.

If you can't enforce it, then the quality of voluntarism leaves much to be desired. So I'm interested in imposing plans because it gives us a chance to go to court and establish enough case law to demonstrate a number of things, including convince the universe that we can make the law work.

CHAIRMAN HESBURGH. What would keep you from imposing the plan universally tomorrow morning?

MR. FLETCHER. A number of things, manpower—we don't have enough staff aboard to do the kind of factfinding, factgathering information to be able to impose them right across the country.

First, there's a difference of opinion as to whether we need to hold a hearing or not. There are those who say we can just go in and take the statistical data as we find it, mold a plan out of that, and take our chances that the court will sustain us. However, the decisions that I've read on the Philadelphia Plan and a couple of others that we've had imposed came about as a result of a hearing and a factgathering session, and the hearing record became a part of the court record, and it seemed that the court leaned very heavy on that record in making its decision in sustaining what we've done.

I don't want any adverse decisions on the book right now while we're trying to establish this. So, consequently, from a policy point of view, I'm committed to holding a hearing in the various communities where we want to impose a plan. Now, that holding the hearing and then gathering the facts out of the hearing and finally putting the plan together and getting it imposed takes about 30 to 35 to possibly 45 days. We don't have the legal staff. We don't have the technical staff at this point in time to do that.

CHAIRMAN HESBURGH. Thank you very much. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Fletcher, one of the matters that we're anxious to explore with you is the extent to which the enormous leverage of the Government contracting program can be used to make more low- and moderate-income housing available in the suburbs.

There seems to be a certain amount of confusion in the record at the moment as to whether or not a contracting agency could impose a housing requirement on a Government contractor. Could the Department of Defense, for example, tell a Government contractor that you will not be eligible for a contract unless there is adequate low- and moderate-income housing to house your employees? Could that be done?

MR. FLETCHER. My understanding of the Executive Order 11246 is that we cannot do that. That's my understanding.

MR. GLICKSTEIN. Mr. Paley, you seem to have disagreed with that.

MR. PALEY. No.

MR. FLETCHER. Let me stay with this now. That's my understanding of Executive Order 11246. However, then we turn around with

Order No. 4, which is an affirmative action document, and we say that the contractor as a part of his affirmative action must address himself to anything that stands in the way to his coming into compliance and if housing happens to be one of those things, then the contractor must address himself to some kind of remedy.

Now, I think what my problem is that in spite of the fact that Order No. 4 is a fine document, it goes a long ways from where we were when we came in, I personally do not feel that Order No. 4 as it is now drafted is actually a binding covenant in that contract.

So, consequently, I think that a contractor could tell us to go fly, if I may be so blunt, and we'd have a hard time pinning him down in court and making him do it. That's my position.

MR. PALEY. I think I ought to clarify what you thought my decision was. We always start from the premise that we look at a situation as an employment problem. A contractor in determining whether or not he's underutilizing minorities makes certain decisions by relating it to a particular problem. Now, an answer to the problem or part of the problem may be housing, and this is the kind of consideration the contractor is supposed to develop. Yet, at the same time, if there are alternatives available—for example, transportation, this kind of thing—so that if a contractor in looking at his minority complement determines that there's no underutilization obviously he's in noncompliance with the Executive order.

MR. GLICKSTEIN. Well, the President the other day explained in rather great detail the importance to this Nation of making low- and moderate-income housing available outside the centers of minority concentration. Do you think that Executive Order 11246 could be amended, for example, to require that for a potential Government contractor to obtain a contract he would have to make provision for adequate low- and moderate-income housing?

MR. PALEY. Well, I don't know if Executive Order 11246 really would have to be amended to reach that requirement. It's already, to a certain extent, built into our Order No. 4 as it relates to affirmative action programs. Certainly we've recognized it as a problem. Our situation, of course, dealing primarily with employment, has to be that it may not be the only problem. It's part of the whole picture.

MR. GLICKSTEIN. Yesterday Mr. Romney announced a system of assigning priorities and preferences in providing housing assistance. Would it be desirable, Mr. Fletcher, to provide that Government contractors or companies that are located in areas where there is adequate low- and moderate-income housing shall receive a preference in terms of obtaining Government contracts? Would you be in favor of such a policy, Mr. Fletcher?

MR. FLETCHER. I'd have no problem with that at all. Yes, I would personally consider that as a part of his capability to perform, if you will.

MR. GLICKSTEIN. Well, would you be in favor of making that policy much more explicit, that all Government contracting agencies will be directed to consider the availability of low- and moderate-income hous-

ing in the area of a particular company and give preferences to those companies that are located in areas where there is low- and moderate-income housing available?

MR. FLETCHER. I would have no problem making that directive. I still have doubts as to whether it would stand up, but I have no problem with making that directive.

MR. GLICKSTEIN. Why do you have doubts whether that would stand up?

MR. FLETCHER. I'm still finding the lawyers inside Government have all kind of split opinions as to how far we can go with this Executive order. It's that simple.

MR. GLICKSTEIN. You must have different lawyers than we do. The Supreme Court once said that: "Like private individuals and businesses, the Government enjoys the unrestricted power to produce its own supplies, to determine those with whom it will deal, and to fix the terms and conditions upon which it will make needed purchases." As far as I know, that decision hasn't been overruled and it's one of the bases on which Order No. 11246 is based.

MR. FLETCHER. Well, I answered your question the way that I personally feel about it. I also answered it cautiously because I've found that if you get 10 lawyers together you can get 10 different opinions as to what you can and can't do, and that's especially the case with the contract compliance and what we're trying to do with affirmative action. Ask 10 different lawyers what you can and can't demand and you'll get 10 different opinions. So, again, I have no problem with putting that out as a directive, but I readily recognize that the chief Counsels at different agencies that are controlled by that directive are going to run to the law books and find out whether they have to do it or not.

VICE CHAIRMAN HORN. Mr. Chairman, if I might make a suggestion, perhaps we should have an intragovernmental internship program where we send you 10 of our lawyers and you send us 10 of yours, and maybe a year of each would be helpful.

CHAIRMAN HESBURGH. I was going to suggest another nonlegal opinion from a nonlawyer, since we're surrounded by lawyers here, and that is that there are two kinds of lawyers: those that tell you how you can do what you want to do without going to jail and those that are always telling you what you can't do. I like the first kind.

MR. GLICKSTEIN. Well, what I'm hoping, Mr. Fletcher, is that particularly in view of the President's statement on housing the other day where he pointed out the extent of polarization that exists in this country and the need to scatter low- and moderate-income housing about, that you would reevaluate the way in which the Government contracting program can be altered to carry out the President's message.

MR. FLETCHER. I'll be happy to.

CHAIRMAN HESBURGH. Mr. Fletcher, we appreciate your coming and, of course, you, too, Mr. Paley. Thank you very much for your participation.

Our next two witnesses are both mayors, to address the problem of the central city in relation to suburban growth, Mayor Carl B. Stokes

of Cleveland, Ohio, and Mayor Norman Mineta, who is Mayor-elect of San Jose, California.

Mayor Stokes has been delayed, I'm told, at the Conference of Mayors, and will be here subsequently, so we will go ahead with Mayor-elect Mineta.

(Whereupon, Mr. Norman Mineta was sworn by the Chairman and testified as follows:)

TESTIMONY OF MR. NORMAN MINETA, MAYOR-ELECT, SAN JOSE, CALIFORNIA

CHAIRMAN HESBURGH. I know you have a statement, Mayor-elect Mineta, and in the interest of brevity, because we are trying to stay on time—we have a Cabinet member arriving later on—we would prefer that you summarize your statement if you would be so good to do that. That will give time for questioning.

MR. MINETA. Fine, Mr. Chairman.

The statement as submitted to you—I'd like to actually start on page 2 of the testimony relative to the Valtierra case because I think this is a very vital part—

CHAIRMAN HESBURGH. I should also add your whole statement will go in the record as is.

MR. MINETA. Fine.

(This statement appears as Exhibit No. 23.)

CHAIRMAN HESBURGH. Would you also identify the gentleman with you?

MR. MINETA. The gentleman with me is Mr. Richard Eckfield who is the mayor's Washington representative for the city of San Jose.

Mr. Chairman, I am sure the Commission is aware that the Valtierra case, involving the right of a referendum vote on public housing, is a case which grows out of the unsuccessful referendum on public housing held in San Jose in June of 1968.

For the record I should state that at that time the majority members of the city council were in favor of constructing public housing, and I am sure that they still are. But the disappointing ruling of the high court has perpetuated the difficulties we face as we try to alleviate our low-rent housing problem.

Let me just take a few minutes to set the stage so that you can better understand the problems we face in San Jose.

We have a definite need for low-rent housing in San Jose. Our most recent study showed our unmet need for low-income families and elderly persons in 1969 to be 14,500 units. Our total low-rent housing requirement at that time was some 28,000 units, but some of this would be accommodated by the private housing market. The 14,500 figure, therefore, was the need which at that time could not be met through the private supply.

The housing programs which we can obtain without referendum do not reach the needs of the low-income market.

The 1969 Kaiser study showed, for example, that 9.4 percent of our population earned less than \$3,000 per annum income; 9.9 percent

earned between \$3,000 and \$5,000 a year; and there were 21.2 percent in the \$5,000 to \$8,000 per year bracket.

In San Jose the basic rent on a 236 three-bedroom unit for a family of four or more rents for between \$135 to \$140 per month. Now, based on the 25 percent of income kind of formula, this would mean a person would have to have an income of \$6,720 per year to participate in this program. Rent supplement payments reduce the effective income for participation in some cases. But the combination of 236 and rent supplements is not a practical way to address the problem. We, in fact, need low-rent public housing.

In San Jose there is a very definite correlation between being poor and being a member of a minority group. In our area we have not only black Americans but we have a substantial Mexican American population as well. Of the approximately 14,500 persons whom the Kaiser report identified as having an unmet low-rent housing need, our city staff estimates upwards of 85 percent of that number are members of minority groups.

In 1968 we tried to obtain a referendum for public housing from the citizens of our community and failed. The Valtierra case resulted from that election. The Commission should know that prior to that election we tried to stress the positive side of low-rent housing. We campaigned on the basis of a dispersal or scattered site program to assure the community that we would not concentrate in one area the 1,000 units of housing for which we were seeking voter approval.

We also talked about quality construction and esthetics. Examples of nice looking garden-type low-rent apartment projects were published in the newspapers in our effort to arrest any fears the citizens might have that the city council might be contemplating construction of some of the institutional type looking public housing that had been built in other parts of the country.

Hindsight being what it is, I am sure that there is always room to say we could have sold harder, or spent more money on a more sophisticated public information program. But the point is we did have our 250-citizen member Better Housing Committee campaigning in the neighborhoods. Approximately \$10,000 was raised locally and spent for publicity, primarily through the newspaper, radio, and television media. A citywide forum was conducted under the citizen committee's sponsorship, and the mayor and the majority of the city council campaigned actively for its approval. Even at that we still lost the election. The voters would not permit us to construct the 1,000 units of housing.

As a mayor, I believe we in the city, working with our city and county housing authorities, have a responsibility to try and promote the development of adequate housing for all citizens within our economy, including the low-incomed.

But the fact remains that this income group has been singled out by the State of California and the Supreme Court, by requiring the city to take special and unusual action before we in the city can see to this housing need.

I am not a lawyer, but to my mind this constitutes discrimination,

not only against the poor, which is bad enough; but due to the correlation between being poor and being of a racial minority, it constitutes discrimination against our racial minority citizens as well. The fact that our city is largely suburban creates a situation whereby the total community can deny to a smaller portion of that community the low-rent housing it needs.

Another problem the special referendum treatment for low-rent housing causes is a financial one. I will not burden this Commission with the problems we face as we try to finance our basic municipal services. However, in the regular election in the State primary, if we were to proceed with an election, it would cost the city itself between \$52,000 and \$67,000. This means, because of our own municipal financial problems, that it will either have to incur such an expense, or postpone even beginning to try to alleviate our low-rent housing problem through construction for another year. Further, as this Commission well knows, no municipal endeavor ever received voter approval without some form of public information program being carried out. Such an effort could run the costs far beyond the cost estimates of the special election itself.

As mayor-elect, I am not at all sure that we are at this time in a position financially to be able to carry out such an obligation to have such a special election. Because of this, we face the grim prospect of being forced to ignore even the basic issue of trying to obtain the voters' consent necessary to enable us to begin to face our low-rent housing responsibilities for a minimum of another year. This, gentlemen, seems to me to be un-American.

In San Jose, since we are talking about solving our own existing low-rent housing problems in our own city, we do not represent a case where, at least as far as the city is concerned, we are proposing to export our low-income citizens to another jurisdiction. Therefore, the question of who pays for the municipal services that these citizens must use, due to the nontaxable nature of their housing that they do not pay for, is not germane. I am sure that some tax relief in terms of a greater tax contribution by the HUD low-rent programs would constitute a selling point for low-rent housing in our community; but in the final analysis, we in San Jose cannot hide behind that issue since the people we hope to house are already living in San Jose. Their present housing is simply substandard, and we want to do something about it.

Maybe HUD should advance us the money required to hold the special election and to mount the necessary public information campaign and then consider this expenditure as an eligible project cost. If the referendum failed, the funds so advanced would be considered as a grant.

Gentlemen, members of the Commission, I really do not know what the answers are, but I can tell you in our city we are going to need both assistance and guidance to meet the burdens placed upon us as we try to meet our low-rent housing responsibilities, or else these burdens which have been legislatively placed upon this single program in California will have to be lifted.

CHAIRMAN HESBURGH. Thank you, Mayor-elect Mineta.

Before we get into questioning, I would like to ask Mayor Carl Stokes, whom I saw coming in, if he would step up and be sworn and make his statement.

Mayor Stokes, it's good to have you with us again. We recall your testifying before this Commission in 1966.

(Whereupon, Mayor Carl B. Stokes was sworn by the Chairman and testified as follows:)

TESTIMONY OF MAYOR CARL B. STOKES, CLEVELAND, OHIO

CHAIRMAN HESBURGH. Mayor Stokes, we have a little time problem because we have a Cabinet member coming, and we would appreciate it very much if you could summarize your statement. You can give the whole statement to the record, but if you could summarize it would be helpful to us.

MAYOR STOKES. Father Hesburgh and members of the Commission, I respectfully request that the statement which I have submitted, along with an accompanying document called "The City", which is published by the National Urban Coalition, be received for the record as though I had personally presented it.

CHAIRMAN HESBURGH. So recorded, and it will be part of the record, and our attorney will pick it up right now, if you would.

(Whereupon, the statement referred to was marked Exhibit No. 24 and the document, "The City" was marked Exhibit No. 25 and received in evidence.)

CHAIRMAN HESBURGH. Would you also identify the gentleman with you, Mayor Stokes?

MAYOR STOKES. Larry Snowwhite from the National League of Cities and Conference of Mayors.

If it please the Chair and the Commission, permit me to go outside the statement which is presently before the Commission to make some additions in this respect. I assume that the Cabinet member which the Commission is anticipating hearing from is the honorable and distinguished Secretary of HUD, George Romney.

CHAIRMAN HESBURGH. That is correct.

MAYOR STOKES. I think he is a distinguished man and I believe a committed American. I do feel I ought to say some things in anticipation of his visit.

If there is a pervasive and pernicious evil in American society other than white racism, it is economic or class prejudice and hostility. It is at the least sophomoric, if not in some sense to try to suggest that something is different in this country, to separate economic prejudices, class hostilities, from the racism that afflicts our society. I do not speak theoretically. I speak, I believe, with the support of both the National League of Cities and the Conference of Mayors on the experiences of those of us who have to preside over approximately 70 percent of the people in the United States.

Mr. Chairman, I would say to you that we have been afflicted with the ravages of racism but also with the ravages of those who dislike

another because he is not able to function at the same economic and social level.

Permit me, in addition to the testimony which I have given on a national basis, to quickly try to make a personal point. I want to make it clear that the white racism of which I reaffirm, and it's been established in the Kerner Commission report and in the Milton Eisenhower Commission on Violence report, that it has an unquestioned debilitating effect on the most important and number one domestic problem of our Nation, to take you next into a discussion of the problems of those who are poor, that happen not to have any black or white complexion to it. And when I say that, the best way for me, a black American, to explain it to you, is that in my city of Cleveland I tried to put low-income housing into the white areas of our city. I met great and fear-some resistance. This Commission was there, some 5 years ago, and established factually some of the great problems of our town.

I would want to say to this Commission that I faced not only resistance but some of the most personal vilification not one degree less, and in some respects much more, when I went to put low-income housing for black families in the middle-income black areas in Cleveland. If you could have been there to listen to the protests by a city councilman by the name of Clarence Thompson and by the name of George White, who has been elevated to the judicial bench, and I mention their names only because when they stood up and made public testimony I assume they want the world to know that they stand for these principles.

As they remarked about why they did not want the low-income housing in this almost totally black neighborhood, here are the reasons, Mr. Chairman, and members of the Commission, by two black councilmen: First, it would overcrowd the schools. Secondly, it would tend to reduce property values. It would overload the existing sewer and other facilities. It would tend to increase crime and juvenile delinquency.

Now, obviously, Mr. Chairman, and members of the Commission, if you close your eyes, those would be the words of any white bigot in any community in the United States. Those weren't white people speaking. Those were two black elected representatives, one of whom has been promoted to the bench, another one who sustained or survived election despite me by some 53 votes.

I would want this country to understand that the fairly well documented white racism is only one part of the problem we have, and as a President of the United States—and I did not come here, Mr. Chairman and members of the Commission, to take a cheap shot at the President of the United States. Frankly, I don't know much difference between the President of the United States' manifest position and that of some 95 percent of most white Americans, so I don't hold the President as expressing something peculiar from or different from what is held by most white Americans.

But I do want to lend the personal experiences which I and other mayors presiding over these problems have that would suggest or not suggest—would establish beyond any refutation, that you cannot separate the pernicious economic discrimination of this Nation from the

pervasive white racist perversions and problems of our country. The two of them together manage, whether it is white or black, to keep the kind of suburban ring around the central cities.

Father, if you would permit me just to read from the speech that was given by a man who is no longer mayor. Voluntarily Arthur Naftalin, who might be considered as the one intellectual of those of us who have been mayors, spoke to us in December in Atlanta, and I think it sums it up, and I want to use it because in his city of Minneapolis—it has only 4 percent black population and too often we tend to try to prove the validity of something on the basis of the number of black people that you have.

So this is what Mr. Naftalin, who is a white mayor, not black like myself, who has a very low black or Puerto Rican population, and no Oriental population to speak of in his city, said, Mr. Chairman, and members of the Commission:

“The central cities can be viewed as having been engaged in a war on several fronts. On one front are the suburbs, forever pillaging the central cities of their leaders and their resources; on another front the State governments, demanding tribute in the form of mandated services but refusing to share the tax booty, even that portion extracted from the city itself; on still another front is the Federal Government, an ogre commanding all the escape routes, a one-time ally whose affections have lapsed, leaving the central cities to meet the rising expectations of their citizens with diminished resources; and on the final front the city’s own residents increasingly restless and rebellious and now demanding to know by what authority the city rules at all.

“It is time, perhaps, that the central cities acknowledge defeat, and that they move to claim the entitlement of any vanquished foe which in their case is to be rescued and rehabilitated by their adversary, the suburbs, the State, the national government, and their own constituents.

“My realities will elaborate this post-war situation. The first of them is simply this: The political and economic power of the central city has precipitously declined and will continue to decline in the future. The 1970 census gives the definitive word. Everywhere central cities have only a minority of the population of the area that they serve. The future belongs to the suburbs. The decline of central city populations and the growth of the suburbs will continue into the seventies, further diminishing the central city’s capacity to cope with its problems in vesting political control evermore firmly in the suburbs.”

I am going to skip over and just end up with what he says.

“That in terms of the number of civic leaders, the suburbs overwhelm the central city. When an areawide matter is under discussion, the cause of the suburbs is defended by an army of city and village mayors and managers, clerks and superintendents, school board members, and highly articulate, affluent, and prestigious citizen leaders, while the central city’s cause rests with the one mayor and his single band of city hall allies, that increasingly the better educated and more influential civic leaders with time, money, knowledge, and mobil-

ity, live in the suburbs and they do not hesitate to use their energies and their talents to support policies that will preserve the advantages enjoyed by their suburban communities. The reality is that increasingly the resources of the urban area are situated in the suburbs, while the problems of the area are located in the central city."

Mr. Chairman, resting on my own confidence about the Commission reading the testimony which we have submitted, just with those additions, I would thank the Chair for giving me this opportunity to appear before you.

CHAIRMAN HESBURGH. Thank you, Mayor Stokes. We have a few questions. Mr. Powell?

MR. POWELL. Mayor Stokes, Mayor Mineta, would either of you care to comment on how access to the suburbs is related to the welfare of the city?

MAYOR STOKES. The access to the suburbs is related to the welfare of the city. Well, when you understand that when your population leaves the city, when the economically viable person leaves the city and that then the businesses, the retail businesses as well as the factories and the other sources of employment follow, and when in fact you have no way for those who are left in the city to get out to where the jobs are, then obviously, just from the standpoint of a man being able to make a living, he has been deprived of his adequate and able opportunity to live close to the place where he would be employed or have an opportunity for employment.

When you compound that with the fact that as the economically viable person and the businesses and industry move to the suburbs, and then the Federal Government assists them in getting into and out of the city by way of highway construction, which highway construction depletes the tax-producing revenues of the city, you compound your problem then by reducing whatever tax-producing real estate that you have in the city.

Finally, I would think that the most important thing is that the suburban living persons, the suburban residents, really are the ones who continue to control the city. When I say control it, I mean that I happen not to know any central city in which the editors of the newspapers live within the central city, and anyone who doesn't understand and appreciate the power of the newspaper is underestimating what the situation is.

The labor leaders live outside of the city. The heads of the chambers of commerce live outside of the city. Yet, these are the real decision-making people who determine whether in fact a tax increase is going to be voted up or rejected. These are the persons who control what the State legislature is or is not going to do in relationship to the central city, and so in this rural suburban-oriented hierarchy that in fact controls the very existence of the central city, this is why our welfare has been decimated and appears so dismal for the future.

MR. POWELL. Mayor Mineta, what is the role of the property tax in opposition to housing for low-income housing?

MR. MINETA. This has been one of the keenest problems involving

most municipalities, and that is that with public housing you do have the tax exempt status of this kind of housing, and if the central city is to continue to assume this kind of a burden involving the lower-income and trying to house those with low-rent type of housing, there has got to be some kind of either full taxation being given to the cities for the incomes that are otherwise lost, or some kind of bonus is going to have to be given to the central cities. Otherwise there will be this continuous flight from the urban areas to the suburbs, and the central cities are going to be left with nothing but the low-income.

The problem here is that, for instance, in San Jose specifically, when you talk about a tax burden in 26 school districts, 14 school districts independent of which are elementary school districts, the kind of burden that is left on those districts to try to provide the school facilities is really a fantastic problem, and yet without this kind of a tax relief, either full taxation being put on that public housing plus a bonus, this kind of trend is going to continue in the future, this kind of flight to the suburbs.

So just from the school viewpoint there is a tremendous burden being placed on the local municipal school districts to provide that kind of service.

MR. POWELL. I have no further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. I'll pass, if I may. We have some housing experts here.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mayor Stokes and Mayor Mineta, I would like to ask you both to comment on my questions. You have described conditions in suburbia which indicate of course what we already know, that the suburban communities have been the beneficiaries of the Federal Government—whatever benefits they have had available have gone to suburbia.

Now, you describe conditions in which the editors, the labor leaders, all have the decisionmaking responsibilities. Now, we have a statement which you have referred to in which the Administration has indicated that it will not attempt to impose federally assisted housing upon any community.

Now, let us assume that a particular community is occupied by all of these people who have run from the cities into FHA-insured homes, and they themselves are the ones who vote to exclude the low-income and moderate-income families.

I have an impression that even this has some implications with respect to the denial of equal protection of the laws under the 14th amendment, and I wonder if you would comment on that.

MAYOR STOKES. If I may comment on it, Mrs. Freeman, there is no question in my own mind about what the denial of the equal protection of the laws here happen to be in relationship, particularly to that poor white American. It's so clear about the black American that it's not clear about the white American.

Can I give you just a quick example? You may think it's a joke; it's

not a joke, but how the average white American considers a certain class of poor white Americans. I once was an assistant prosecutor, and one day two of the vice squadsmen came in, and they were quite upset, and I asked them what they were so disturbed about, and they related to me how they had been across the street on 21st and Paine where they had gotten a call about a woman molesting the customers there, and they went there and tried to get the woman to leave and she wouldn't leave, and finally they had to call the wagon. When the wagon came the fellow said: "It took four of us to put her in the wagon," and just out of curiosity I said: "Was she white or colored?" He said, "Neither one; she was a hillbilly."

Now, that man went right on talking because he really had not understood he said anything wrong or odd. He knew she wasn't black, and he was not going to let her be white. He called her something else. And that's what they consider about the Appalachian white in our Nation. This poor white person is relegated to the central city, denied his and her rights under the privileges of this country, just like the black American is, and together with that central city black American of moderate-or low-income, is denied the opportunity of moving out where there is an opportunity to have some space, enjoy some open space, enjoy a better quality school system, to enjoy the opportunities of FHA-guaranteed mortgage and federally insured housing.

He, like the black and brown American, is relegated to that central city where he in effect subsidizes his own existence by trying to pay the exorbitant and ever-increasing property tax on an ever-decreasing valuated property. This is why I try to fight in the sense, Mrs. Freeman and members of the Commission, for this poor white American of whom the President quite astutely recognizes that there are more of than there are black Americans. But in fact if he doesn't move to affirmatively protect the rights of the white American who happens to be poor, destitute, politically powerless, then there is no question in my mind but the extent to which the rights of the black American are going to be protected are going to be proportionately less even than that gentleman or lady, as the case may be.

MR. MINETA. The other point I believe that you make is a fine distinction in terms of the overabundance generally of the Federal aid that does go to the suburbs, and it denies the poor, regardless of whether he be white or nonwhite, access to that kind of service that would otherwise be available.

The other point I think is the fact that in the Valtierra case, involving the referendum measure in California, the court just spoke to the point that this is not one of racial discrimination, but the point is because of the high correlation between low income and the racial question, they really sort of disregarded that.

I think the other point that I'd like to make is that there is a dichotomy really that we face, in that we have statements, having been issued last Friday, and this is a thing I wanted to point out in my statement, and that is we need guidance. We need guidance because there is a Presidential statement that says he will not do certain things by

Executive fiat, and yet the Department of Justice yesterday decided, or at least announced in conjunction with HUD, that they were going to file against the Black Jack, Missouri case.

So again here is this dichotomy of approach, and this leaves the municipalities, I think, in sort of a state of ambivalence as to what do we do from here, if this is the approach that is being applied by the Federal Government.

MAYOR STOKES. Mr. Chairman, I am not at all impressed by the law suit against the Black Jack, Missouri situation. I'm not impressed. I just don't know how much more blatant, how flagrant a situation could be, than the Black Jack, Missouri case. My goodness, if a case such as that in which you literally almost have working drawings on a project, and then a community moves openly, deliberately, to rezone to stop it, well, my goodness, if a Government couldn't move under those kind of circumstances, then in fact there is no chance at all. It is not in this outrageously flagrant violation of people's rights that would assure me about the Administration's policy in this regard. I want the less blatant things. I want the Cleveland, Ohio, situation, for instance, that's in the materials that I have presented to you, where your Council of Government, your COG unit that is now required under the Federal Government, and which I will tell you, tomorrow is going to be—not tomorrow literally but tomorrow in the sense of our governmental behavior—is going to be the unit through which all Federal funds will come. There is not a city or metropolitan unit in the United States in which the regional government unit has given the central city proportionate representation in this powerful planning unit that will determine every Federal dollar that will come into the city, and that will determine the future planning and development of that metropolitan statistical area.

Now, if you take a situation like in Cleveland where out of a seven-county area they have established 52 votes and given the city of Cleveland three votes, representing about 8 percent of the votes, where we constitute 25 percent of the population—25 percent—but only with 8 percent of the vote. And do you know this, Mr. Chairman, Cleveland is the only city in the United States that has filed a lawsuit against its regional government demanding that we either get proportionate representation along the lines of the one-man one-vote rule, or else that we get something approximating it, which might be all right, except that there has been no responsiveness from the Federal Government to this patently discriminatory voting situation of the regional government that determines the welfare of over—well, it's in excess of over 2.5 million people in our area. So we are fighting it alone, although we brought it to the attention of the Government.

Now it means, however, that throughout the United States regional governments have organized to discriminate against the central city in an organization which is going to go on and be the sole determinant of whether or not Federal funds come into the city, and in every place in this country that is similarly situated, the city of Cleveland is the only one that has filed. I'm catching—I wish I could use a colloquialism—but as a black mayor it comes down to where they simply excuse it by

saying: "Well, Stokes is proceeding on this on a sort of reverse racism.

I'm leaving office, Mr. Chairman. I don't have to be here today, I don't even have to be in Philadelphia where we are meeting in the Conference of Mayors, but I am concerned about my city. I am concerned about the white and black Clevelander who is going to be left there, not only without any protection but even without an advocate, because the very City Council of Cleveland is doing everything that it can to literally turn over the resources and assets of our city by capitulating to this powerful suburban Council of Governments.

Now, at the risk of extending my remarks too far, I am not going to do as Mayor Naftalin suggests, literally to throw myself upon the mercy of the very ones who are raping my city. I would anticipate finding little compassion from those who take the violent act in the first place. The only recourse that these embattled surrounded cities have is the Federal Government. In the absence of the Federal Government taking an affirmative, aggressive role, then I say from experience, not from theory, that the result will be a continued deprecation of the lives of the people of the central city and those who are trapped there. I turn to the Federal Government, having exhausted the traditional laudatory but unrealistic thing about local government being closest to the people and thereby able best to answer and respond to its needs. I say to you at the local level it does respond. It also responds at the most base of people's motivations, its prejudices, its hates, and as a consequence we have to turn to the one level of Government since, as Mayor Lindsay has suggested, there is an ever-increasing body of opinion that State governments are irrelevant, and we have no other course to which to turn, other than to our Federal Government. And if our goals are to be carried out as a free society, and as a society in which every man and woman, every family, will have a decent home in a suitable environment, only by the extension of the powers of the central government in the granting or withholding of the dollars that come from all of us in this Nation, and thereby exact the performance by those who would tend to indulge their prejudices and their racism.

CHAIRMAN HESBURGH, Mr. Ruiz, do you have a question?

COMMISSIONER RUIZ. Yes, if I may be permitted.

Mr. Mineta, it is stated in crowded urban areas that the greater number of poor persons are minority persons, and as you stated there is a correlation. I was just wondering, maybe San Jose may not have emphasized this fact of life in preparing the Valtierra Supreme Court case. It is understandable why you as a Japanese American, and I as a Mexican American, would like to get something through without reference to our minority identification. I know that Mexican Americans tried to make themselves invisible for a long period of time and just tried to be American Americans statistically speaking. Undoubtedly such an effort was made in San Jose. In the San Jose case, perhaps there was too much subtlety. A subtle case won't work until we have more Black Jack cases; whereas Mayor Stokes may not be impressed by the Black Jack case, there are many persons who are in need of that precedent. We listened to a great deal of testimony from the contract

compliance people this morning, and they are just sitting and sitting and sitting because they want an open-and-shut case to establish a precedent, but since the Honorable Norman Mineta has said that he would like perhaps some advice on what to do from here on out, it is my respectful suggestion that if I were to reapply for funds, I would not try to hide the true facts and would interject the racial question.

MR. MINETA. Thank you, Mr. Ruiz.

MAYOR STOKES. Could I respond to that?

CHAIRMAN HESBURGH. Sure, go ahead.

MAYOR STOKES. I want to put this in the right perspective, sir. You must understand, at the risk of repetition, I don't believe that there is anything in the world that even an unreasonable person could have done about Black Jack except filed a law suit. That is not the typical case in America. It is the subtleties from that point down that I am talking about and that we have to address ourself to, and if, in fact, our governmental employees need a Black Jack situation in every instance, then, in fact, we have made no greater progress than where we were in 1954 in which it was just not only *de facto* but *de jure* segregation in our schools throughout the United States.

This HUD administration and the Federal Government totally have to recognize the variation, all of the subtleties, the extents to which people will go to sublimate their fundamental prejudices. I will give you a good illustration, if you will. We've got 1,200 acres outside the city of Cleveland where we want to build a new town. As soon as we announced, in a six-page statement, the construction of a new town with some 8,000 housing units, some 5,000 of which would be up for low-income homeownership, all of the surrounding suburbs needed no more. They immediately called a meeting, over 700 people attended, and they came out unquestionably—let me just give you an illustration because I think maybe I don't get over what I'm talking about. Let me give you an idea of what these suburbs said.

There was a little mayor called Graybow who split his community of Warrensville Heights with some black people in it, just split it right down the middle before this came up. And immediately he came out and united all the white people in the village against it. The mayor of Beachwood notified our so-called regional government of his unequivocal opposition. He hadn't even read the six pages. The village of North Randall, through its mayor, urged the regional council to refuse approval of our application for detailed planning grant under the New Communities Act. The Warrensville Heights Board of Education adopted a resolution against the new town on grounds that it would have more children to educate. The village of Orange resolved in a resolution its "unalterable" opposition. The trustees of Warrensville Township urgently requested the regional government to deny our application for a planning grant. Not a one of them said anything about black people moving out there. Not a one of them said anything about poor people moving out there. But that was the unspoken reason, and Black Jack happens not to go to that kind of situation. And it is that Cleveland situation which I say is the day-to-day situation of an

America which learns that it no longer talks about spiks and wops and niggers, but rather talks about density and overcrowding of schools, etcetera, to achieve the same purpose.

COMMISSIONER RUIZ. Wouldn't you say that our opinions coincided, if I were to adopt the same premise that you have, that the contract compliance interpretation as given to us this morning in the opinion of many people is a totally unreasonable interpretation?

MAYOR STOKES. Yes, sir.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Mayor Stokes, let me ask you several questions. I think the Commission would agree with you in your concern for the plight of all poor Americans, be they white, red, black, yellow, or brown. At this point in the record, without really getting an answer from you on this right now because I think we have your interpretation, I would like General Counsel to furnish a statement as to the jurisdiction of this Commission over white Americans of a lower economic level.

Now, Mayor, I notice you were quite eloquent at the beginning of your testimony on the problems of white racism in America. I wonder, since this Commission has a policy where we are against all racism, be it white, red, black, yellow, or brown, do you feel the same way as this Commission and would you also oppose black racism in this country, or is this just a one-way street?

MAYOR STOKES. Well, if you take the definition of racism you couldn't have black racism because racism, as strictly defined, relates to a majority group that has some feelings of superiority, and obviously the black people of America would have to struggle hard to arrive at that psychological or mental attitude.

VICE CHAIRMAN HORN. I think you are aware of certain groups within the black community that have had this feeling, haven't they? This is a matter of historical record, though.

MAYOR STOKES. Well, for instance?

VICE CHAIRMAN HORN. I am thinking of some of the religious groups, how about the Black Panthers, etc? I mean, hasn't there been a black superiority cult, whether you can call it identity-finding or other term sociologists—I am not one—might use. But isn't there also a problem where we ought to be against all racism, whether it be black, white, red, yellow, or brown, rather than simply one sort of racism. That's all I'm trying to get on the record. I didn't think you'd want to leave the record that cloudy so I'm trying to help you.

MAYOR STOKES. Fine. I appreciate that.

I think that the term "black racism" has been loosely used, but I think what you are really trying to arrive at is whether or not, for whatever reason it is, if black people in response to white racism develop a hatred of their own, a feeling of vindictiveness and a wish to harm them as they have been harmed by the white person, do I agree with that? No, I don't agree with it. In fact, it is an absolutely unviable, untenable position for us to take, and if you had been in Philadelphia on Sunday when I spoke at the Bright Hope Baptist Church, I warned the black

American: "Don't fall into this hate trap, because if there is one thing that the white man knows how to do in America, it is how to deal with you when you turn to violence if you are a minority group." And I compared the potential of the white America with that of Germany when it moved to exterminate Jews. There is no question in my mind, sir, about the potential of white America being willing to visit extermination upon the black American when he turns to picking up the brick and the fire bomb and the pistol and the rifle, and that's why I urge my people: "Don't take that course of action."

VICE CHAIRMAN HORN. In other words, Mayor, you would agree with this Commission that one should make their decisions in this country without regard to the color of one's skin, essentially in terms of the negative aspects of that.

MAYOR STOKES. I think that's elemental. I think that's axiomatic, yes.

VICE CHAIRMAN HORN. Let me ask you: I am very interested in the role of mayors in this country. We have heard a lot about what local government ought to be doing; we hear a lot about what State and Federal Government ought to be doing. And to lead into this, I wonder what is the proportion of the Cleveland city budget that is spent on public works construction, let's say.

MAYOR STOKES. There is one difference between your capital budget—most cities have little problems with capital budgets, which would go into construction etcetera, but if you are talking about the operating budget—

VICE CHAIRMAN HORN. I am really just limiting it to public works, and you will see in a minute why. How many buildings do you build under city funds a year? I'm just curious. Do millions go into this field?

MAYOR STOKES. You'd be talking about millions. One building costs us \$8 million.

VICE CHAIRMAN HORN. All right. Now, what I'm trying to get at is, what role have you taken in Cleveland as a mayor to, say, set down specifications—you weren't here when Mr. Fletcher testified on the Philadelphia Plan, and there is a lot of controversy as to whether it's successful or not successful. One point he made is that in Federal Government contracts, at least, there ought to be specifications as to minority hours worked on these projects, and if you lay it out and then they sign the contract—say the contractor or the unions related to it—you then have got a way to monitor them.

Now, my query to you is: In Cleveland in city contracts issued by the city of Cleveland on public works construction, have you got standards for the employment of minority workers?

MAYOR STOKES. Mr. Horn, the city of Cleveland leads the United States in this regard. In December of 1969 I passed an equal employment opportunities ordinance for the city of Cleveland that has brought millions of dollars into the black community, in the minority Puerto Rican community in our city, which has seen, for instance, a black architectural and a black engineering firm become the largest in the world, not in the Nation but in the world, and affixed behind their

name, the name of their firm, "International". Because when I came in office they didn't have but five employees. Now each one of them have over 32, and I'm talking about high-paid professional persons.

In addition to which you can't get a contract in the city of Cleveland to build a dog house or pyramid if you don't have substantial minority representation, and this has brought me into the worst conflict with our predominantly white city council, with even our newspaper there, the Cleveland Press that has editorialized about whether or not the enforcement of minority rights cost the city of Cleveland money. There is no city in the United States that has seen the kind of record that my city has in this regard.

VICE CHAIRMAN HORN. I think this would be very helpful to the Commission, Mayor. Could you furnish this Commission with—maybe it isn't available either at the city or Labor Department level, and I'd like General Counsel to get it from Labor Department if it is available, with the statistics as to the number of black workers employed in labor unions in Cleveland prior to the time you took office and now. I am interested because I think this is the sort of leadership that ought to take place. I am interested in the proportionate increase in the number of black workers in labor unions in Cleveland.

MAYOR STOKES. Whether they are working or whether they are in a labor union?

VICE CHAIRMAN HORN. Well, I'd like to know if the leverage you could exert through your public works building program funded by the city of Cleveland has resulted in more black citizens in this case being added to building and construction trades unions, and if we could get the data of those the year before you took office and the last current year, I think it would be appropriate to have it at this place in the record.

MAYOR STOKES. Don't you want to also find out whether or not they are working?

VICE CHAIRMAN HORN. Yes.

MAYOR STOKES. You know, they could be in the unions and not working.

VICE CHAIRMAN HORN. After I get that question answered I'd be delighted to have any additional comments you'd like to make.

MAYOR STOKES. Sure, we'll provide a copy of our EEO ordinance also.

VICE CHAIRMAN HORN. But I think Mr. Fletcher's point was very interesting in the sense that he felt there had to be a specification to really get the contractor and the unions nailed on what their commitment is in terms of goals.

MAYOR STOKES. We didn't wait on the Federal Government in this. We didn't need the Federal Government.

CHAIRMAN HESBURGH. Mr. Mayors, we appreciate very much your help. We are at a closing time because we are going to have a 15-minute break, and then we will reconvene for the final session today. Mayors, we are going to miss seeing you in these hearings.

CHAIRMAN HESBURGH. Will this hearing of the United States Commission on Civil Rights kindly come to order.

We first have a brief statement by Martin Sloane, Assistant Staff Director, Office of Civil Rights Program and Policy, of this Commission. He will talk on Federal policy and equal housing opportunity.

(Whereupon, Mr. Martin E. Sloane was sworn by the Chairman and testified as follows:)

**TESTIMONY OF MR. MARTIN E. SLOANE, ASSISTANT
STAFF DIRECTOR, OFFICE OF CIVIL RIGHTS PROGRAM
AND POLICY, U.S. COMMISSION ON CIVIL RIGHTS**

MR. GLICKSTEIN. Mr. Sloane, I have a copy of a paper entitled "Federal Policy and Equal Housing Opportunity" which I believe you prepared. Is this a copy of that paper?

MR. SLOANE. That's correct.

MR. GLICKSTEIN. May we have this introduced into the record?

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the document referred was marked Exhibit No. 26 and received in evidence.)

MR. GLICKSTEIN. I'd like to ask you some questions about the contents of that. Would you briefly summarize the development of Federal policy on equal housing opportunity over the years and the impact this policy has had on housing opportunities for minority families, please?

MR. SLOANE. Federal policy on equal housing opportunity over the years falls into three distinct chronological phases. The first phase runs from the early 1930's when the Federal long-range involvement in housing and urban development first began, until approximately 1947, shortly after the end of the Second World War. It was during this period that the principal Federal Agencies and programs which we still have today were established, Agencies such as the Federal Housing Administration and its mortgage insurance programs, the Federal Home Loan Bank Board, providing assistance to savings and loan associations, our principal mortgage finance institutions. Other Agencies which were depression Agencies, such as the Home Owner Loan Corporation, also were formed during this period. Federal policy during this period was to be an active exponent of racial discrimination and racial segregation in housing.

The Federal Housing Administration, for example, the leading Federal Agency at the time and perhaps still now, actively encouraged racial homogeneity in housing; its underwriting manual warned against inharmonious racial groups. It also warned against school integration. In fact, it recommended racially restrictive covenants to assure racially pure subdivisions.

The Federal Home Loan Bank Board and the Home Owners Loan Corporation as well, maintained policies which were in favor of racial segregation. In fact, the policies of these Agencies were not even separate but equal. As the late Charles Abrams once characterized these policies, it was separate for whites, nothing for blacks.

The only Agency that differed in the slightest from this uniform Federal policy back in the thirties and early mid-forties was the United

States Housing Authority which was responsible for the low-rent public housing program. This was the one Agency that had policies and practices aimed at assuring that minorities, particularly black minorities, got their fair share of low-rent public housing. It was, however, mostly on a segregated basis. The United States Housing Authority did nothing about it.

The second phase began shortly after the end of the Second World War and ran until November of 1962. This phase can be characterized as one of neutrality. Shortly after the end of the Second World War, FHA, in response to pressures from a number of groups, removed references to inadvisability of inharmonious racial groups from its underwriting manual and changed them to more neutral terms.

It wasn't until the Supreme Court's decision in *Shelley v. Kraemer*, which ruled that judicial enforcement of racially restrictive covenants was in violation of the 14th amendment, that Federal policy really began to change, at least as official policy. FHA and its sister Agency, VA, changed completely from recommending racially restrictive covenants to refusing to insure guaranteed loans on houses that carried racially restrictive covenants. FHA also began encouraging open occupancy, not requiring but encouraging open occupancy projects. FHA and VA also entered into cooperation agreements with States and localities that had fair housing laws and agreed that they would debar builders who were found to have violated these State and local fair housing laws.

These policies had very little practical effect. As I mentioned earlier, the policy on restrictive covenants was only one form of discrimination. There were plenty of other forms which FHA and VA did little about. The policy of encouraging open housing had little effect because there was no requirement. The cooperation agreement with State and local fair housing commissions had no effect at all. Not one builder was ever debarred under these cooperation agreements.

In fact, during this period of neutrality and actually encouraging open occupancy, it was estimated that less than 2 percent of FHA subdivision houses had gone to minorities during the entire period of 1946 through 1959. At the same time the Public Housing Administration, which was a successor to the United States Housing Authority, still was permitting local housing authorities to assign tenants on the basis of race even though it was clear to any lawyer in this country that this was a clear violation of the United States Constitution. Nonetheless, it was permitted.

The third phase began in November of 1962 with the issuance of the Executive order on equal opportunity and extends to the present. It is a period in which Federal Agencies have been subjected to increasingly stringent mandates of equal housing opportunity. These consist first of the Executive order on equal opportunity and housing which prohibited discrimination in federally assisted housing. Then Title VI of the 1964 Civil Rights Act which prohibited discrimination in any federal assisted programs or activities, including housing programs. Title VIII of the Civil Rights Act of 1968, which is the Federal fair housing law

prohibiting discrimination in most of the Nation's housing, and the Supreme Court's decision, *Jones v. Mayer and Company*, which prohibits all racial discrimination in all housing, public as well as private.

Again this has been a change in Federal policy and very little in the way of practical effect. According to an FHA survey made in 1968, a little more than 3 percent of all FHA subdivision housing had gone to black families during the period following the issuance of the Executive order of equal opportunity in housing until the end of 1967. This was a period when discrimination in federally assisted housing and FHA housing was supposedly prohibited by law. Yet, very little of the housing did go to black families.

MR. GLICKSTEIN. Mr. Sloane, would you summarize the recent activities of HUD in carrying out its responsibilities under Title VIII?

MR. SLOANE. HUD's posture in carrying out Title VIII responsibilities and other fair housing responsibilities has been essentially a passive one. Reliance for enforcement has been almost entirely upon the receipt of complaints. There have been comparatively few complaints, many fewer that have been satisfactorily resolved. This has been demonstrated through experience the most ineffective way of enforcing the civil rights law.

HUD's activities have also been characterized by inordinate delays in taking basic and even rudimentary steps in carrying out its civil rights responsibilities. For example, the very rudimentary step of collecting racial and ethnic data on program participation, the decision to take this step was not made until April 1970 which was 2 years after the fair housing law was passed, almost 6 years after Title VI was passed, more than 7 years after the Executive order had been issued. The actual collection of racial and ethnic data did not commence until 9 months after that decision was made.

Other fundamental decisions, such as site selection criteria for civil rights, tenant selection criteria for civil rights, also decisions on these criteria have been characterized by inordinate delays of nearly 2 years.

Of equal importance is that there has been a failure to gear and coordinate the substantive program operation with civil rights program operation, this despite a clear directive in Federal fair housing law to HUD and to all Federal Departments and Agencies to carry out their programs and activities in a manner affirmatively to further the purposes of Title VIII.

One example of this is in the 235 program of homeownership for low-income families, which the Commission recently issued a report on, and there we found that FHA, which is the constituent of HUD charged with responsibility for operating this program, had virtually abdicated responsibility for it entirely, turned it over to private parties. What we found in fact was that it was private real estate brokers, private lenders, private builders that were making the key decisions, decisions being made on a racial and ethnic basis as to which of the eligible families would get any subsidy at all, how much subsidy they would get, and which housing they would be permitted to live in.

MR. GLICKSTEIN. Mr. Sloane, would you give us your overall conclu-

sion about the Fair Housing Law role the Federal Government is now playing as opposed to the role it played in earlier years?

MR. SLOANE. In terms of official policy there has been, I think, a 180 degree change, a change from one of openly and officially advocating racial discrimination and segregation, to one of clear legal mandates of equal housing opportunities. Practices, however, have not changed nearly to the same extent. My conclusion is that the zeal with which Federal officials carried out policies of racial discrimination back in the early days of Federal involvement has not been matched at all by similar enthusiasm in carrying out their mandates of equal housing opportunity.

MR. GLICKSTEIN. I have no further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Thank you very much, Mr. Sloane.

CHAIRMAN HESBURGH. We would now like to ask the Honorable George Romney, Secretary of HUD, Mr. Eugene Gullledge, Mr. Floyd Hyde, Mr. Samuel J. Simmons—all of these being Assistant Secretaries—to be sworn.

(Whereupon, Secretary George W. Romney, Mr. Eugene A. Gullledge, Mr. Floyd M. Hyde, and Mr. Samuel J. Simmons were sworn by the Chairman and testified as follows:)

TESTIMONY OF THE HONORABLE GEORGE W. ROMNEY, SECRETARY; MR. EUGENE A. GULLEDGE, ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FHA COMMISSIONER; MR. FLOYD M. HYDE, ASSISTANT SECRETARY FOR COMMUNITY DEVELOPMENT; AND MR. SAMUEL J. SIMMONS, ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, D.C.

CHAIRMAN HESBURGH. Mr. Secretary, may I say first of all that we are very grateful to you for being with us today because we really couldn't have completed our task in this hearing without having the opportunity of this discussion with you, and we appreciate your coming, and we understand you have some opening remarks you'd like to make.

SECRETARY ROMNEY. Yes, Mr. Chairman. I will keep them as brief as I can. I think you have prepared copies and I am not going to read all of the language in the prepared statement, but I hope that you will glance at those parts that I don't read. I am very pleased to be here to discuss this subject.

CHAIRMAN HESBURGH. Mr. Secretary, may we also introduce the full copy into the record?

SECRETARY ROMNEY. Yes, thank you.

CHAIRMAN HESBURGH. Thank you, sir. So ordered.

(Whereupon, the document referred to was marked Exhibit No. 27 and received in evidence.)

SECRETARY ROMNEY. I am pleased to be here because I have been involved directly and personally for over 30 years in trying to do something about civil rights in housing. As vice president of the Detroit Victory Council, I fought segregated war housing during World War II. As a delegate to Michigan's Constitutional Convention, I helped lead the fight for a State Civil Rights Commission. And as Governor I

worked to build the Commission into a well-staffed, aggressive agency, and to expand its powers, particularly in the housing field.

My fundamental convictions on housing discrimination have not changed: if anything they have intensified over the years. What has changed, hopefully, is the breadth and depth of my understanding of the unequalled complexity of issues and problems which have come to be associated with housing and race.

I want to say, Mr. Chairman, that this subject is the most complicated subject in this country, and to undertake to deal with it in simplistic terms is a very unfortunate thing to do. And I want to add this, that it's going to be some time before those who are now indicating interest in this subject are really going to understand it, and consequently there is going to be a lot of confusion over terms and other things. And having gone through that experience with respect to Vietnam personally in the international field, I hope we are not going to get into all the difficulties that we have experienced in connection with that tragic development in this area, because it affects us more directly.

But in any event, the President's statement last Friday, I believe, goes a long way toward laying out these issues candidly and thoroughly. The President's statement articulated the springboard for action. We can move forward now, faster, more firmly and effectively than ever before. And surely, the pace of our progress will be quicker if all who share the vision of an open society with open communities can join in devising and implementing strategies which will make that vision a reality.

An open community cannot be defined primarily in physical terms. We cannot prescribe its size or contours; the precise combination of houses, apartments, parks, streets, and factories. Nor can we prescribe the "right" physical characteristics of people who live in any given location.

An open community must be defined primarily in human terms. We have an open society with open communities when each citizen has freedom of movement, and opportunity to live and work with dignity, and when public and private institutions protect and enhance his freedom and opportunity.

Measured in these human terms, our Nation's great metropolitan areas are not open communities for many minority Americans. And, of course, they are not open communities in the field of housing yet.

Our historical failure as a society to provide truly equal opportunity for all has now placed its stamp on the physical and political map of our cities and suburbs. Deep divisions exist. According to new census data, racial concentration is intensifying, as the President detailed in his message. In the interest of time, I am not going to read the extracts from his message, but they deal with the consequences of segregation, with public policy that he has announced, and with an interpretation of affirmative action under Title VIII.

Now, in the face of his explicit affirmation of national policy, it is difficult to understand a persistent misconception of the President's

position. It has been alleged that the President takes a "passive" view of the Federal role in housing, and that he is unwilling to wield what some perceive as "the enormous leverage" of the Federal Government to make low- and moderate-income housing available throughout metropolitan areas on a nondiscriminatory basis.

The root of the misunderstanding appears to lie in differing perceptions of the Federal role in housing and community development generally. Because of the tragic dislocations and injustices which have tormented our Nation during its recent history of explosive urbanization, it is tempting to look for villains and scapegoats.

The Federal Government, with Agencies like FHA, the old urban renewal agency, and others, assumed this malevolent role in the eyes of many. It follows, of course, that the Federal Government can and should now assume the role of omnipotent hero. Now, I don't question what has just been cited from an historical standpoint up until the last 2 or 3 years. Certainly, the governmental policy was in line with national policy, which was a policy of segregation. That's why these Government Agencies reflected that in their public policies in early years because the whole national approach was segregation. But in any event, FHA only played a small part in that picture. Until as recently as 1968, the average subsidized housing production in this country was 35,000 units a year. It's only since 1969 that there's been any significant subsidized housing production. That also included insured—but if you include the insured—it was one segment of the picture—the insured was much bigger than the subsidized. But again this misconception plays a role because if the Federal Government really shaped all this segregation, then it can clean it up, you see, and it should now assume the role of omnipotent hero—righting all wrongs, knocking down all barriers with a flourish, and redrawing the crazy quilt map of our metropolitan areas.

This scenario simply does not fit the facts. Without minimizing the Federal role in either creating problems or solving them, and without defending Federal policies which were clearly indefensible, we should at least recognize that, for example, the vast majority of suburban homes were built without any FHA involvement at all.

The presumed "enormous leverage" of HUD programs should also be kept in perspective. For example, the water and sewer program, which is often cited as a powerful lever, has provided partial assistance to only one in 10 suburban jurisdictions during the entire 5-year life of the program. Although we do have some leverage, HUD programs are in fact of marginal interest to most well-established suburbs, and it is sheer illusion to think that HUD can bring about startling overnight changes in the existing suburban physical and social landscape by turning Federal money on or off, even if we had the authority, even if we had the authority beyond the authority we have, and we have very limited authority in this area if you will take a look at the history of the enactment of the fair housing legislation and Title VI of the 1964 Civil Rights Act. It's not nearly as broad as many people are claiming in their public discussions in this country today.

Now, what the President has said is that the Federal Government is not going to create an army of Federal zoning officials to march through thousands of individual suburbs, substitute Federal zoning for local zoning, and thus impose low- and moderate-income housing or "economic integration" by "bureaucratic fiat".

But the President also said: "We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."

And how does the Federal Government "encourage" positive action in this field? It does so by administering its programs and its limited resources to achieve stated national policies and purposes. That is what my department has done and will continue to pursue vigorously, and I do not apologize for the fact that this Administration has taken a year-and-a-half since the Fair Housing Act became fully effective to formulate policies as crucial to the future of this Nation as the policies with respect to Vietnam. Now, we didn't do a very good job in devising policies for Vietnam. I hope we have done a better job in connection with the initial policies here with respect to the domestic problem that is most nearly comparable to that unfortunate situation.

I would now like to outline for you a kind of status report on what we have already done, and what further actions we have underway. First, I will cover policies involving federally assisted housing, and then comment briefly on policies involving community development projects affecting housing.

Last August, when I appeared before Senator Mondale's Select Committee, I called attention to the huge new volume of federally assisted housing and indicated that we were working with the Department of Justice to develop site selection policies governing FHA-assisted housing programs. I testified that:

"Pending adoption and publication of such policies the FHA is pursuing an informal policy designed to avoid further concentrations of federally assisted housing in large, institutional settings or in areas of minority racial concentration."

This informal but explicit policy was first instituted in late 1969, and we are beginning to see some preliminary results. You should bear in mind, of course, that because of the several months' lag between application and housing completion, there is a corresponding lag in visible results. In the case of our 236 program and public housing program, that lag is around 8 to 9 months at least. In the case of 235 it's not quite that long. It's about half of that. But there is a time lag here, and so policies put into effect at that point are only beginning to show up.

I believe, however, that the maps I am about to show you indicate an encouraging trend toward a broader variety of locational choice throughout metropolitan areas. Clearly, the maps do not show the detail on racial and economic characteristics which are necessary for a complete evaluation, but they do indicate an incipient trend.

(The maps referred to appear beginning at p. 763.)

Now, each of the marks on these maps that I will show represent 20 units or more. On some of the maps the areas of minority concen-

tration are outlined. Because we didn't have time to do so, the minority concentration is not uniform on all the maps. In most of them, it's 75 percent or more. In some it's 40 to 50 percent.

But in any event, let's take a look at Baltimore. The Baltimore map shows that before January 1970, 22 projects were built inside the city limits, marked in red, while only two projects were located outside the city limits. The black circles identify all subsidized housing of 20 units or more, including public housing, rent supplements, 221(d) (3), Sections 235, 236, and 202 elderly. During the next 6 months, 20 projects—the red dots—were completed in the city, and nine were located elsewhere in the metropolitan area, showing some progress in dispersal. Then between July of last year and December, or January 1st of this year, only four projects were started in the city—those are the blue triangles—while 12 new projects were located outside the city limits.

The Baltimore Metropolitan Area is quite large, as shown in the small inset map but, as you can see, the blue triangles representing the projects since July of last year, represent a much greater dispersal in the Baltimore area.

While the rate of construction of federally assisted projects has declined recently in Washington, D.C., the location of the projects has been directed to areas beyond the city's boundaries.

Let's take a look at Washington. As of January 1, 1970, the map shows an equal distribution of projects within and outside of the city limits—21 projects each. During the next 6 months, five projects were started inside the city and 14 were located in other parts of the metropolitan area—the red dots. Now, only three projects were started inside the city in the 6-month period which runs from July through December, as compared with nine projects in surrounding areas.

I should point out that many of the projects started in 1970 were processed and approved earlier, so we should show an even better distribution in 1971, but again it's the incipient trend that I'm talking about. I guess I should point out that the blue circled areas are the areas of minority concentration, and you will note that very few of the projects started since July last year are within the areas of minority concentration. Practically all of them are outside those areas of minority concentration.

Now, San Diego shows a large amount of subsidized housing located outside the city boundaries in widely scattered parts of the metropolitan area. Only eight projects were located in the city as of December 31, 1970; five existed prior to January 1, 1970; and three were added between July 1 and December 31, 1970. Prior to January 1, 1970, only three projects had been located outside the city. During the 6-month period from January 1 to July 1, 1970, 25 projects were built in outlying parts of the metropolitan area. An additional 21 projects were completed and located in the remaining portion of the Standard Metropolitan Statistical Area, particularly to the east of the city. Again you see in the blue areas, the areas of minority concentration, practically all of the recent projects are outside of the areas of minority concentration.

Now let's take a look at San Antonio. Activity in San Antonio has

been strong and the effect of the instructions given to the field office concerning the location of assisted housing projects can be seen. As of January 1, 1970, 42 projects were within city limits, and only one was outside. In the next 6 months, seven projects were started within the city limits, and none outside. But during the third period, 12 projects were started outside the city limits and 11 were started inside. Again you see the dispersal, the greater dispersal, and I think we have a concentration map there showing areas of minority concentration, and again the blue triangles are largely outside of the area of minority concentration.

Now, let's take a look at Pittsburgh. The Pittsburgh Metropolitan Area contains a large volume of federally assisted housing. As of January 1, 1970, 33 projects had been started inside the city limits, again the red line essentially shows it, and approximately 50 projects were scattered throughout the remainder of the four-county metropolitan area. Construction activity decreased during the next 6 months when 17 projects were started within the city and five projects were located in the area immediately outside the city. During the 6-month period ending December 31, 1970, nine projects were started in Pittsburgh city, while 16 projects were begun in various parts of the metropolitan area.

Now, there is another aspect to consider in connection with Pittsburgh, and that is that the cluster of red units there and the blue triangle units in the central city area is partly a result of the fact that we have a Project Rehab there and those are importantly rehabilitation projects, because one of the things we are undertaking to do is to rehabilitate the blighted areas. In Pittsburgh, HUD and a private organization, created and financed by a large number of industrial firms, have been cooperating aggressively to rehabilitate substandard housing on a volume basis using the Section 236 and rent supplement programs primarily. We think it is vital that Federal housing assistance programs be used to rebuild slum areas at the same time they are being used to create housing opportunities for minorities outside of the central city. Both approaches, I am convinced, are fully consistent with our overriding objective of creating freedom of housing choice for all Americans.

Now let's take a look at Jacksonville, Florida. Jacksonville has demonstrated an effort to achieve a variety of locations for federally assisted housing. A total of 19 projects had been started within city boundaries as of January 1, 1970, compared with seven projects outside the city limits. During the next 6 months, twice as many projects—12—were built outside the city as within its boundaries, the red dots. During the last 6 months of 1970, four projects were located in Jacksonville proper; eight were located in other parts of Duval County.

These results have been achieved under the informal program that we have had since the end of 1969 or 1970. And I might say that we have charts of about 189 metropolitan areas, and all of them show some improvement, except for about 19. Again all I am saying is, considering the time lag, it indicates that even the informal policy began to create

some degree of distribution better than we had been getting.

Now, these results have been achieved under the Department's informal policy, which has not been reduced to writing. Now that the President has issued his statement, we are in a position to give more explicit policy guidance to our field personnel.

We have developed housing project selection criteria which we sent over I think yesterday afternoon so you could take a look at them. I realize they are very lengthy and complex so I don't know that you've had much of a chance to take a look at them, but we wanted to supply them as quick as we could. Now, because of their importance, we will not make them immediately effective, but will first circulate them for 30 days for public comment. Copies are available for your view and suggestions.

There are separate forms for Section 235, for rental projects under Section 236 or rent supplement, and for public housing. While there are some variations resulting from program differences—the homeownership form has no management criterion, for example—the basic format and approach is the same in each case.

A proposed project will be rated “superior”, “adequate”, or poor with respect to criteria ranging from “community need” to “improved environmental location for low-income families” to “effect of proposed housing upon neighborhood environment.” A key item is “nondiscriminatory location”. Here a proposed project will earn a “superior” rating if it is outside an area of minority concentration. It can earn a “superior” or “adequate” rating if it is inside an area of minority concentration only if it is either a part of a major development like Fort Lincoln, or the Southwest Urban Renewal Area, where the HUD building is located, which will be racially inclusive, or if it responds to overriding needs which can't feasibly be met any other way. If a project doesn't rate at least “adequate” on the nondiscriminatory location criterion, it will be disapproved.

Now, this clear statement of policy should be very helpful both to our field personnel in rating proposed housing projects, and to developers and sponsors in guiding them as to the project characteristics which will enhance the prospects for their approval. I think I can anticipate a question by saying that as a general proposition, all other factors being equal, projects outside areas of minority concentration will be given preference. In other words, that one factor can make the difference. Now, it's true other factors can, too, but in any event that factor could make the difference.

As some of you may know, we recently published in the Federal Register for comment guidelines which we propose to use in governing the advertising of housing for sale or rent. These guidelines are directed to newspapers, but they will also be helpful to housing sponsors, owners, sellers, and renters.

We now propose additional regulations designed to insure that there truly is equal opportunity for eligible persons of all races to buy or rent federally assisted housing. These proposed regulations govern such things as advertising practices, nondiscrimination in employment of

sales personnel, informing relocation agencies of housing availability, consideration of persons referred by HUD, and the like. The requirements likewise cover subdivisions, multifamily projects, and mobile home courts wherever 25 or more units are involved. One further significant requirement is that HUD field offices will make available to interested persons and groups—including, for example, minority brokers and fair housing organizations—upon request, every 30 days, lists of FHA subdivisions or projects on which FHA has issued commitments. This should help to spread the word regarding availability of FHA-assisted housing more broadly, as recommended by your Commission in its report on 235 housing last week.

These affirmative marketing guidelines are also being published for 30 days to secure comments before they become effective. Copies are available for your review and your suggestions.

Now, in addition to these new program standards and guidelines, HUD is continuing its support of innovative efforts to end the invidious dual housing market which prevails in almost all metropolitan areas. We have three contracts in force—in Chicago, San Francisco, and Washington, D.C.—to develop and test the most effective techniques for achieving an open housing marketing system. These efforts will demonstrate methods which can be duplicated in other metropolitan areas to increase housing opportunities for minority citizens by eliminating segregated dual real estate markets.

Last week the General Services Administration and HUD signed an agreement covering low- and moderate-income housing in the vicinity of newly located Federal facilities. Under the agreement, HUD will investigate the availability of low- and moderate-income housing on a nondiscriminatory basis and make findings and provide advice to GSA as to such availability with respect to proposed locations for a federally constructed building or leased space. In the event that GSA has no reasonable alternative to a site where the supply of low- and moderate-income housing on a nondiscriminatory basis is inadequate to meet the needs of the personnel of the Agency involved, GSA and HUD will develop an affirmative action plan designed to assure an adequate supply of housing within 6 months after the building or space is to be occupied.

Turning now to various community development grant programs, I want to emphasize that we will continue to apply the law and this Administration's policies to those programs. This means that communities that actively pursue the expansion of housing opportunities have an advantage in competing for limited program dollars.

In this connection, the President's statement of June 11 set forth three important statutory mandates. Now, I'm not going to read his language again. You have his message. But no grant is to be made if there is discrimination, and a workable program is required with respect to some of the major programs, and the comprehensive planning funds require a housing element in the comprehensive plans.

Now, these statutory requirements impose basic conditions of eligibility. As I noted earlier, the President has also said:

"We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."

To implement that policy and the affirmative statutory requirement in the Fair Housing Act with respect to the water and sewer grant program, we have a project selection system which takes into account, in addition to such factors as public health and financial need, the accessibility of low- and moderate-income housing to be served by the project. Again copies are available for your review and suggestions.

I'd like to make this water and sewer picture crystal clear. Yesterday in my press conference I pointed out that most of the water and sewer projects require a housing element, but let me make that situation completely clear. There are two ways in which a community can secure water and sewer grants. In both cases they must have a comprehensive planning program. Now, if the comprehensive planning program is privately financed, if it's not financed by Federal money and if the community involved has adopted a comprehensive planning program, which must include a housing element, then they become eligible for the water and sewer grant, and under those circumstances communities would be eligible.

Now, on the other hand, the communities that apply for Federal funds for comprehensive planning secure those funds only if their comprehensive planning includes a housing element. And under those circumstances, they have complied with the housing element requirement with respect to 701 before they have received a water and sewer grant.

Now, in addition, in the project selection system, the housing element is one of the elements that is used in establishing points for eligibility for the water and sewer money. But there are two ways that you can secure water and sewer grants and there is some flexibility in that program.

Finally, I want to say a word about long-range projects for metropolitan open communities. And when I talk about a metropolitan open community, I want to make perfectly clear what I'm talking about. I do not believe you are ever going to see in this country a completely homogenized society. I do not believe that this country is going to be put on a racial grid. I do not believe you are going to have racial quotas that will mix people on an even proportion throughout the country or throughout metropolitan areas. But I profoundly believe that it's necessary for these metropolitan communities to provide reasonable housing opportunities throughout the metropolitan community. And this means that to do that there may well be low- or moderate-income housing in one community in the metropolitan area, and perhaps not in another. But I do not believe that it will contribute to the effort to achieve progress in this field to continue to play on this idea that against the background of the fragmentation that exists in our metropolitan communities where you have suburban communities with as few as a thousand people in them, 2,500 people, little communities in a big community—I do not believe that it will promote the cause that we

are concerned about here by talking about trying to get every little general purpose government in a metropolitan area to accept low- and moderate-income housing. Now many will. The Dayton Plan is a great example. I'm all for it. Our Agency financed it, and our Agency has undertaken to make it a successful project, because I think that is a good ideal approach. But to undertake to bring this about through coercive means in my opinion would be self-defeating.

Now, on the other hand, I think it is absolutely essential for every American to have an opportunity to live within a reasonable distance of his job and daily activities, and that means there must be on a metropolitan basis the opportunity for people of different backgrounds to live under circumstances of their choice within a reasonable distance of their jobs and daily activities.

Now, I believe that most Americans, fundamentally, are receptive to constructive change. Much depends, however, on the approach of those responsible for public and private leadership. If we permit or encourage the tough issues involved to be posed in oversimplified terms of racial polarization, the cause of open communities will be set back, and open metropolitan areas, because that's what I think we have to have. This has already cost valuable time.

Furthermore, when there is too much pressure for what "*ought to be*," it prevents what *can be*." But if we convince Americans of all races that there are comprehensive approaches which can harness continuing metropolitan growth and turn it to the welfare of all of our citizens, we can yet succeed. And it is vital to the future of all America, and, yes, the world, that we succeed, that we succeed in accelerating progress toward providing every American with his inalienable constitutional rights of equal opportunity and freedom of choice.

CHAIRMAN HESBURGH. Mr. Glickstein, our Staff Director, will conduct the original questioning.

MR. GLICKSTEIN. As you mentioned, Mr. Secretary, we received a lot of these documents yesterday afternoon, in fact we have been receiving lots of documents since last Friday, and it's been a little difficult to digest it all, and I thought perhaps we could make some effort to clarify some of the things that are contained in these various documents.

Today you have some doubt on the presumed enormous leverage of HUD programs. The President in his statement on Friday said the Federal Government provides billions of dollars in assistance and guarantees of mortgage credit for housing financing. The Federal Government sets standards widely used by industry, such as minimal property standards, credit standards, appraisal standards, and construction standards. The Federal Government makes market analyses which materially influence the private sector. The Federal Government approves mortgagees, builders, developers, and brokers with respect to their doing business with HUD. Yesterday at your press conference you were also asked about the question of leverage. The question was: "So there is a penalty attached to not having low-income housing?" and you said: "Absolutely, absolutely, absolutely, and there is real leverage for

the programs, and this idea that there is no leverage is not accurate. There is great leverage because the leverage is that they can freely decide whether or not they want to qualify. But if they don't qualify they don't get the money."

Do you have this great leverage?

SECRETARY ROMNEY. Mr. Glickstein, I don't want to get into an argument with you over semantics here. I made what I meant by enormous leverage perfectly clear. I meant that the Federal Government by itself can't overnight change these conditions with its programs. That's what I described as enormous leverage, and there are those who talk in those terms, and it just can't be done. Anyone who really knows this problem, as you know it, sir, knows that even if you have the Federal Government and the State governments and the local governments moving, you've got to have private leadership, too. And so when you talk about what Government can do, let's keep it in perspective. That's all I'm suggesting.

MR. GLICKSTEIN. The President in his statement talked about programs today being directed at correcting the effects of past discrimination.

SECRETARY ROMNEY. That's right.

MR. GLICKSTEIN. And that is an enormous problem.

SECRETARY ROMNEY. Look, we have leverage. I made it perfectly clear yesterday we have leverage. We have been using to some extent that leverage; we are going to be using it more. We have leverage. But that leverage is not leverage that can bring about a utopia in this picture overnight, which is what people seem to think can be done.

MR. GLICKSTEIN. As I understand it, under the community development projects that you spoke about yesterday, we have such things as water and sewer grants, urban renewal grants, and open space grants. The figures that I have are rather rough, but I believe that for all three programs there was \$1.7 billion available this fiscal year, approximately, and \$1.1 billion of that was for urban renewal. And as I understand the urban renewal program, a good deal of that, or most of it, is within the cities rather than in the suburbs.

So according to my arithmetic, there is \$600 million available for exercising Federal leverage through community development in opening up housing in the suburbs. That's not a great deal of money then, is it?

SECRETARY ROMNEY. Of course, you've got the housing programs, and you have other programs that are involved here, so I don't particularly follow your point. There's a shortage of funds. It is true that a good deal of the urban renewal money goes into these central cities. A good deal of it goes into smaller communities, and some of it into suburban areas, because you have suburban areas that are blighted and that need renewal, and consequently a good deal of the urban renewal money is going into those areas. And there is a great shortage of those funds, and therefore that produces leverage, but it doesn't produce enormous leverage in the terms that some people have used the term.

MR. GLICKSTEIN. Of course, the problem of lack of low- and moder-

ate-income housing in the suburbs is really not just a HUD problem. It's a national problem. What if the leverage that you spoke about that's available through housing programs, community development programs, was increased by adding to that EPA programs, education funds, highway funds, why shouldn't this be a truly national program involving all programs and not just HUD programs?

SECRETARY ROMNEY. Well, Mr. Glickstein, that's entirely up to Congress, but you have to have congressional authorization to do this. And again I want to say that in my opinion, if you focus attention primarily on that course, that you are just going to stir up a great big controversy that's going to delay progress on the things that can be. Now, there are those who think we ought to cut off all funds to any community that discriminates on any program. Now, Congress has been through this argument. The courts have been into it. There are court decisions on this point. The Congress has been into it, and the Congress in considering the civil rights legislation of '64 and the fair housing legislation of '68, had a pinpoint amendment. So again, I sincerely believe that if you focus attention on some of these proposals that probably *ought to be* if you had different circumstances, you can well retard and prevent progress on what *can be*.

MR. GLICKSTEIN. I wasn't really talking about cutting off funds. What I was suggesting was that these other programs also be dispersed on a priority basis, and that the carrot be held out not just for water and sewer grants—

SECRETARY ROMNEY. You ask the other Departments about that. The President has directed all of the Agencies dealing with housing to do that in the statement he issued, the Agriculture Department, the Veterans Administration, the Defense Department.

MR. GLICKSTEIN. And of course Title VIII does direct all Federal Agencies to administer their programs so as to further the purpose of the title.

SECRETARY ROMNEY. Yes, but let me call your attention to this, that the act doesn't define fair housing, and it doesn't define affirmative action, and consequently they really ducked the question of what fair housing meant and what affirmative action means. Now, the President didn't duck it. He has defined it in his statement. Now, these are some of the realities you have to deal with here.

MR. GLICKSTEIN. Well, in your statement today and in your press conference yesterday, and also in the President's statement, a great deal of attention was placed on the fact that housing or community development programs must be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way. Is the need to be part of the plan a new requirement?

SECRETARY ROMNEY. No.

MR. GLICKSTEIN. That's a requirement that's been around for some time?

SECRETARY ROMNEY. That's part of the workable program. It's part of the comprehensive planning. It's been a part of the picture for some time. Now, with respect to the housing programs, of course we

have just developed these project selection systems, the proposed ones, but the planning requirements have been required by the statutes and as a matter of fact the General Accounting Office gave us a report shortly after we took office indicating that while there had been a statutory requirement for the workable program, that the workable program had never really been enforced. Well, we've enforced it. We've cut off funds from Chicago, We've cut off funds from other cities, San Francisco and other cities where they didn't have a workable program. We've been enforcing it. It has some teeth now.

MR. GLICKSTEIN. On the 701 type program that you had been using to evaluate water and sewer grants, have those plans been effective in scattering low- and moderate-income housing in the suburbs?

SECRETARY ROMNEY. To some extent. It's one element of the picture.

MR. GLICKSTEIN. Have they been evaluated to determine whether they are being effective?

SECRETARY ROMNEY. We are not in as good a position to evaluate that as we will be when we get the racial data that we are in the process of collecting on all of our programs. We have racial data now in the public housing program, but we don't have racial data on our other programs, and, consequently, we are not in a position to evaluate as we will be within another year.

MR. GLICKSTEIN. As a result of the new or clarified policies of the last few days, are there going to be any changes in what's going to be required of these plans that must be in existence before either housing or community development programs are funded?

SECRETARY ROMNEY. We don't have any under current consideration with respect to comprehensive planning and the workable program.

MR. GLICKSTEIN. For example, would the plan have to define the housing needs of the region by income group?

SECRETARY ROMNEY. Well, again, to the extent that the housing criteria that we have just announced requires some such distinctions, why, they will be involved. But I don't know of plans in that direction with respect to the workable program or the comprehensive planning program.

MR. GLICKSTEIN. The President in his statement said the plans had to be result-oriented with respect to its progress toward the overall goal. Will the plan specify goals and timetables and specific methods of achieving goals?

SECRETARY ROMNEY. Well, we have outlined specific methods of achieving goals, yes.

MR. GLICKSTEIN. Well, as I understand the way—

SECRETARY ROMNEY. If you are asking if we are going to set up certain figures, no, we are not going to do that, because that isn't the way the program works. That isn't the way Congress has set up these programs. Congress has set up these programs on the basis that as far as housing is concerned the Department doesn't build housing, that the Department depends on local organizations, private or public, coming in and submitting a housing proposal.

MR. GLICKSTEIN. But that program has to consist of a plan.

SECRETARY ROMNEY. Well, it has to be consistent with the requirements with respect to housing, and the workable program and the comprehensive planning program must have a housing element. Now, with respect to the housing programs, we are dependent on other people coming in and submitting proposals. We set up general objectives in that area, and Congress has set up the national housing goal, but to bring it down in great detail it depends on what people come in with that enables us to make a selection as between different proposals.

MR. GLICKSTEIN. But the President's statement says that in approving a proposal it has to be part of a plan that expands the supply of low- and moderate-income housing, and what I'm asking is how can you—

SECRETARY ROMNEY. What page are you reading from?

MR. GLICKSTEIN. On page 2 of the President's statement. (See p. .)

SECRETARY ROMNEY. Well, let me see what you are reading from.

MR. GLICKSTEIN. It's the third paragraph on page 2.

SECRETARY ROMNEY. As I have indicated, in connection with the comprehensive planning money, the comprehensive planning approach must include a plan, and that plan must include a plan for housing. The same thing is true with respect to the workable program. The workable program must include a plan with respect to meeting housing needs. So it does do that.

MR. GLICKSTEIN. When somebody comes in to you—

SECRETARY ROMNEY. In the case of Cleveland— let me give you a specific example. Mayor Stokes was just on here. Cleveland has not had its workable program recertified until—I have forgotten whether it's been recertified right now or not—it's still pending—but we think we are about in a position to recertify it because Cleveland has just indicated that they will include in their workable program provision for 2,500 housing units. Now my recollection is that it still has to be approved by the city council before we can recertify, but the workable program does get into those specific terms. In the case of Chicago, we held up funds to Chicago for some time because of their failure to make a firm commitment with respect to housing units under their workable program. Now, when they made a firm commitment with respect to the housing units under their workable program, then it was recertified, and that was fairly recently.

So, yes, these plans do include requirements of that character.

MR. GLICKSTEIN. So it isn't just a matter of waiting for somebody to come in with a project proposal and then evaluating that proposal in isolation?

SECRETARY ROMNEY. Well, Mr. Glickstein, it depends on what you are talking about. There are many programs we are talking about here, and if you will be specific in your questions, I will be specific in my answers. As far as housing is concerned, in approving a housing project *per se*, that housing project doesn't have to be a part of an overall plan, but it does have to conform with the requirements with respect to housing.

Now, with respect to making money available to a local community

for comprehensive planning, that local community must have a housing plan.

MR. GLICKSTEIN. Let's say a community comes in and requests a water and sewer grant from HUD. Doesn't that have to be part of a plan?

SECRETARY ROMNEY. It does have to be part of a plan.

MR. GLICKSTEIN. And how would you evaluate that particular application for a water and sewer grant in terms of whether it conformed to the plan?

SECRETARY ROMNEY. At this point the Congress requires that the community have a plan that will make provision for housing, but the statute does not require at this point for the plan to actually submit a specific housing program. It will require the submission of a specific housing program beginning next fall, but it doesn't at this point.

MR. GLICKSTEIN. That requirement has been deferred for a number of falls, hasn't it?

SECRETARY ROMNEY. Yes, on the action of members of Congress, but not at our request. We have never requested deferrals. As a matter of fact, we have been concerned with the deferral of the requirement for a specific program.

MR. GLICKSTEIN. Well, what about a 235 project, for example? If a builder comes in and proposes a 235 project, doesn't that have to be part of a plan?

SECRETARY ROMNEY. No, it does not have to be part of a plan.

MR. GLICKSTEIN. Again the President said the law requires that local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way.

SECRETARY ROMNEY. That's true in many ways but it's not an absolute that applies to everything, and it doesn't apply to every housing project that is submitted.

MR. GLICKSTEIN. Well, I guess what I'm really driving at is—

SECRETARY ROMNEY. Now, we have requested that the A-95 review be applied in those instances where housing projects involve 50 or more units, and that's so that where there is a regional body that is doing regional planning that projects of any consequence will be reviewed by them for the purpose of giving us the benefit of their views with respect to the relationship of that housing project to their plans.

MR. GLICKSTEIN. But as I understand the A-95 review process, one of the things the clearinghouse is required to comment on is not the availability of low- and moderate-income housing or the effect of the particular project in relieving areas of racial concentration. So at least as far as what this Commission is interested in today, the A-95 review process wouldn't get us very far.

SECRETARY ROMNEY. Well, they can comment on any aspect of the situation they want to comment on.

MR. GLICKSTEIN. But they are not required to under the A-95?

SECRETARY ROMNEY. They are not required to, that's right.

MR. GLICKSTEIN. I guess what I'm driving at is that we heard testi-

mony about the Miami Valley Plan and that you commented on the other day, and on paper it looked like a very fine plan, and it indicated where the 235 housing was going to be and where all the other types of housing were going to be, and I assume that if a builder came in and had a proposal to build some housing in one part of the Miami Valley area on the basis of the Plan, that Plan does take account of the needs of low- and moderate-income housing, and his particular project might be approved. But Mr. Bertsch who testified told us that the mere fact that something is projected on a plan does not necessarily mean it's ever going to be done.

SECRETARY ROMNEY. At this point there is no requirement that the housing projects conform with a Miami type plan. However, because I think that the Plan deserves a real test, and deserves encouragement, we are going to work with them to help them to carry it out in line with their agreement. We did help the Miami Valley to develop this Plan. As a matter of fact, I had the men who initiated it tell me that it was some of the statements that I have been making that caused them to undertake this effort, and I was very pleased to hear that. Furthermore, we helped finance their planning, and we think it represents a step in the direction that many other communities might wisely take and, consequently, we want to, if possible, help them to determine whether or not that plan can succeed.

MR. GLICKSTEIN. Don't you have any discretion in setting requirements about what the plan should require or contain?

SECRETARY ROMNEY. Not as much as you think I have. No, I have no authority to require these plans to contain the sort of thing you are talking about.

MR. GLICKSTEIN. But again, would you have discretion to indicate which types of plans you'd give preference to?

SECRETARY ROMNEY. We have the authority to apply the criteria that we have outlined here, and we would undertake to apply those criteria.

MR. GLICKSTEIN. Those criteria were not directed at plans. They were directed at—

SECRETARY ROMNEY. We have no authority, Mr. Glickstein, as I think you know, to require a metropolitan area to plan, number one. Number two, we have no authority to require them to include what you are talking about.

MR. GLICKSTEIN. I know you have no authority to require a metropolitan area to plan, but according to the President's statement, unless there is a plan, then the community doesn't participate in Federal programs.

SECRETARY ROMNEY. That's very true with respect to our program in many ways, but as is the case with most other things, it is not an absolute that applies to everything that's done. If you want to so construe it, why go ahead and do it.

MR. GLICKSTEIN. Let me move on to some of the slides that we saw here. You indicated that it was impossible—you didn't have the data at the moment to tell us whether some of these new projects being built

in the suburban ring were occupied by whites or blacks, is that correct?

SECRETARY ROMNEY. That's right.

MR. GLICKSTEIN. The report on the 235 program that the Commission issued last week indicated by and large that new 235 projects in the suburbs were occupied by whites, and by and large 235 projects involving existing housing in the inner-city were occupied by blacks.

SECRETARY ROMNEY. As you know, I didn't disagree with that basically.

MR. GLICKSTEIN. You didn't?

SECRETARY ROMNEY. No. I replied. I made a public comment and I trust you read it and I didn't disagree basically. As a matter of fact, you don't have to prove through me that we've got a dual housing situation in the country. We've got a dual housing situation. We've got dual housing markets in practically every metropolitan area in the country, and that's one reason we need an affirmative marketing plan, and that's one reason we developed one, and we believe that under that program we can make some progress. That's one reason why we are testing different approaches in some metropolitan areas to see what we can do.

MR. GLICKSTEIN. And you believe that the affirmative marketing plan that was announced the other day would remedy, or possibly remedy—

SECRETARY ROMNEY. I didn't say it would remedy it. It's too deep-seated for that. I don't think any one thing will remedy the situation. I think this oversimplification is one of the problems. It's an element that might be helpful, and it's a first step in that direction, and we believe it will be helpful.

MR. GLICKSTEIN. Well, the other day in explaining the results of our study you said that the program operates within the framework of the private real estate market. FHA has traditionally been structured, legally and administratively, to respond to the private market. FHA does not by itself control such things as housing, site location, housing consumer preferences, choice of brokers, or the willingness of brokers to deal or not deal in FHA-insured properties.

How will the affirmative marketing plans deal with this problem involving FHA that you described in your statement the other day?

SECRETARY ROMNEY. Do you want me to read it? You've got it. I'll be glad to read it.

"Pursuant to this authority it is the policy of HUD to administer its FHA housing programs so as to achieve a condition in which individuals of similar income levels in the same housing marketing area have a like range of housing choices available to them regardless of race, color, religion, or national origin. Each sponsor of a proposed HUD-FHA project or subdivision shall pursue affirmative fair housing marketing policies in solicitation of eligible buyers and tenants.

"Requirements: Each sponsor shall meet the following requirements:

"(a) Carry out an affirmative program to attract applicants of all races. Such a program shall typically involve publicizing the availability of housing opportunities, including advertising in minority media,

if minority publications or other media are available in the area from which the market potential will be drawn. All advertising shall include either the HUD-approved equal housing opportunity logo or slogan, and all advertising depicting persons shall depict persons of majority and minority races.

“(b) Maintain a nondiscriminatory hiring policy in recruiting from both minority and majority races for staff engaged in the sale or rental of properties.

“(c) Instruct all employees and agents in the policy of nondiscrimination in fair housing.

“(d) Specifically inform local housing authorities and relocation agencies of the development of projects and subdivisions and data pertinent thereto.

“(e) Specifically solicit eligible buyers or tenants reported to the sponsor by the HUD area or insuring office.

“(f) Prominently display in the sales or rental office of the project or subdivision and include in any printed material used in connection with sales or rentals information concerning its nondiscriminatory fair housing policy.

“The affirmative fair housing marketing requirements, as set forth in 4(a) to 4(f) above, shall apply, as of the effective date of this policy, to all subdivisions, multifamily projects, and mobile home parks of 25 or more lots, units or spaces, hereafter developed under FHA subsidized and unsubsidized housing programs.

“5. Each sponsor of a project or subdivision shall provide on a form to be supplied by HUD information indicating his affirmative fair housing marketing plan to comply with the requirements set forth above.

“6. Upon request, the Director of each Area and Insuring Office shall provide monthly a list of all projects or subdivisions covered by this circular on which commitments have been issued during the preceding 30 days to all interested individuals and groups.

“7. Sponsors failing to comply with the requirements of this circular will make themselves liable to sanctions authorized by law and regulations.”

Now, we are hopeful that that will enable us to make some progress in this field.

MR. GLICKSTEIN. How will FHA determine compliance with these guidelines?

SECRETARY ROMNEY. By complaints or spot checking.

MR. GLICKSTEIN. Will you become involved in spot checking or will you rely on complaints?

SECRETARY ROMNEY. We will rely on complaints and we will do our own checking where we have reason to do so.

MR. GLICKSTEIN. I think the Commission has been critical of HUD because you have not engaged in enough self-initiated investigations and—

SECRETARY ROMNEY. Well, you’ve been critical of us in many ways.

MR. GLICKSTEIN. That was one respect, and I have an article that appeared in the Milwaukee Sentinel on April 19th that quotes the

Federal Housing Administrator of Wisconsin in which he is talking about the 235 program, and he indicates that most of the new houses have been built in the suburbs and have gone to whites, the same pattern we found, and he said he would welcome a complaint and would act on it rapidly and indicated that without a complaint his hands were tied; he just couldn't do anything.

SECRETARY ROMNEY. Well, Mr. Glickstein, with the affirmative marketing policy and with the project housing selection criteria that we've just submitted, it's obvious that there should be a significantly better distribution of the housing on the basis where it must be open to all. Now, I don't think you or anyone else should expect immediate improvement because the hard facts are that this is a problem of a very deep-seated character that has to be dealt with.

MR. GLICKSTEIN. Just one final question before I defer to the Commission. We have been talking primarily about construction of new housing, and in the President's statement and I believe in your statement today you did comment on the great progress we are making in building additional units of new housing every year.

SECRETARY ROMNEY. Yes, I think the Commission has recognized the fact that we are doing a great deal more in terms of providing low- and moderate-income housing on a volume basis for the first time, really, in the history of the country.

MR. GLICKSTEIN. But, nevertheless, I would guess that most of the housing market consists of existing housing.

SECRETARY ROMNEY. You mean that we are supplying or is being sold?

MR. GLICKSTEIN. That people are moving into. They are moving into existing housing in the suburbs and existing housing in the cities, and I take it that your affirmative marketing circular doesn't cover existing housing?

SECRETARY ROMNEY. I think that's right. It applies to subsidized and FHA-insured.

MR. GLICKSTEIN. But not existing housing.

SECRETARY ROMNEY. FHA-insured.

MR. GLICKSTEIN. Existing housing?

SECRETARY ROMNEY. No, not existing.

MR. GLICKSTEIN. Just the new starts.

SECRETARY ROMNEY. That's right.

MR. GLICKSTEIN. So as I understand the way—

SECRETARY ROMNEY. Look, we are not ducking this question that you're raising. Now what you are really talking about is the dual housing market that exists in this country and the fact that most minority citizens when they go into a real estate office are shown the book for blacks instead of the book for whites. We know that, and we have some very meaningful projects that are beginning to show some real results, and if you want to check into one that is most meaningful, take a look at the Leadership Council in Chicago. Now, they, with our money, have reached a point where they now have Federal judges beginning to assess some real penalties against people who discriminate, and they

are also assessing penalties of sufficient magnitude and providing attorney fees of sufficient magnitude, so hopefully this will become an attractive area for private legal practice. But in any event, Mr. Glickstein, one of my college professors told me once something I have never forgotten, and I think it's very practical and sound in terms of making progress, and if you can find anyone more concerned about making progress in this field than I am I'd like to know who he is, because I have lived through what happens as a result of the prejudices and the explosiveness of what we are talking about here. Now, you want to take a look at what the Leadership Council of Chicago is doing.

MR. GLICKSTEIN. I believe we are going to hear testimony from them.

SECRETARY ROMNEY. And it takes private leadership of the character involved there to make real progress as well as governmental programs. It cannot be done by Government alone. The Government should provide the leadership. The National Government should certainly be out in the forefront and we are, but what my college professor said to me was this: That if you really want to make progress in any field, you have to start with where things are and build from there. You can't start way up here where you'd like to see things and build in mid-air or it doesn't last.

Now, what I have been undertaking to do as head of this Department is to identify where things are and what we can do to move from there and achieve some progress, and we've got some meaningful experiments going on. The Washington Center activity is one here in Washington. The Mid-Peninsula activity and the National Committee Against Discrimination in Housing in the San Francisco Area is another, and with the results of those programs and others, the Dayton Plan and the President's statement, I think we are at a point where we can begin to request national private leadership to step up and be counted in this area, along with governmental leadership.

Now, the hard facts are, having been in the public arena as I have been, what the President has just done is a very courageous thing as you yourself I think indicated in your statement to some extent. But, in any event, very few people who run for public office are prepared to stand up and take a firm position in the area we are talking about, and the President has just done that, and in my opinion he has done it in a very statesmanlike way because he has reconciled these two principles of equal opportunity and greater freedom of choice in this housing area in terms of how we can move from where we are in these various areas to move up, and that's what we need to concentrate on in my opinion.

MR. GLICKSTEIN. I have some additional questions, Mr. Chairman, but perhaps I could defer to the other Commission members.

CHAIRMAN HESBURGH. If you don't we are going to take it away from you anyway. Thank you, Mr. Glickstein.

I think Vice Chairman, Dr. Horn, would like to initiate some questions.

VICE CHAIRMAN HORN. Mr. Chairman, there are a number of documents we have referred to which really haven't been put in the record

yet. I think I put in the President's statement yesterday of June 11, but I would also like to include in the record at this point, since we will refer to them—and I think we will have to check with the White House as to whether it's proper. There was a background briefing provided at the White House on June 11 providing some background on the President's statement. Two White House officials participated. It was for quotation to them but not attribution to them. It's possible we might identify them as White House Official 1 and White House Official 2. I think that ought to be in the record. If it was publicly released, then it can be put in with their names.

The second thing would be the statement the Secretary made on June 14, and the transcript of the press conference which I think lay the whole basis for documents.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the White House briefing was marked Exhibit No. 28, Secretary Romney's statement of June 14 was marked Exhibit No. 29, and the transcript of the press conference was marked Exhibit No. 30 and were received in evidence.)

VICE CHAIRMAN HORN. Let me commend you first, Mr. Secretary, and the President, for trying to get some results and try to put an end to the rhetoric, even though we all have to deal with rhetoric as a way to implement policy.

Now, in the last few days we have listened to witnesses and some in the press and there are varying interpretations of these documents. Some read into it in a way just what they want to read into it. Let me tell you what I read into it, and I wish you would correct me if I'm wrong.

As I understand the President's statement, it boils down to this, that although the Federal Government will not force economic integration, that those locally designed proposals which do promote economic integration will get first crack at either the Federal monies or the grants or guarantees as appropriate, and that's really what the leverage is, and I refer, of course, to the paragraph you have just been discussing with Mr. Glickstein, paragraph 3 on page 2 of the President's statement, as combined with, I believe, part of page 7 of the President's statement, that with more applications than it can fund it must select those for funding which it determines most fully satisfy the purposes of the enabling legislation, and in doing so it says, "yes" or "no" to local requests for financial assistance for projects that have been locally planned and will be locally executed.

Am I wrong in that interpretation?

SECRETARY ROMNEY. Let me put the essence of it in my words, if I may.

VICE CHAIRMAN HORN. All right.

SECRETARY ROMNEY. As far as I am concerned, the President has made it very clear that the Administration will take every action to eliminate racial discrimination, and it will also take action to eliminate racial discrimination that is cloaked under economic actions of any type, that the economic will not be permitted to hide racial discrimina-

tion as a subterfuge.

Now, I think also if you want a succinct statement of what the President's policy is, that you will find it on page 11 of his statement, where he says:

"Based on a careful review of the legislative history of the 1964 and 1968 Civil Rights Acts, and also of the program context within which the law has developed, I interpret the 'affirmative action' mandate of the 1968 act to mean that the administrator of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This does not mean that no federally assisted low- and moderate-income housing may be built within areas of minority concentration. It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration.

"In furtherance of this policy, not only the Department of Housing and Urban Development but also the other departments and agencies administering housing programs—the Veterans Administration, the Farmers Home Administration and the Department of Defense—will administer their programs in a way which will advance equal housing opportunity for people of all income levels on a metropolitan areawide basis."

Now, I think if you couple what I said earlier about taking action to eliminate racial discrimination whether direct or covert, and this, that's the basic thrust.

VICE CHAIRMAN HORN. Now, my understanding of that thrust, taking what's said then on pages 2, 7, and 11, would be that as long as it's locally proposed in a plan or project proposal and it is promoting economic integration, or at least additional housing opportunities of low- and medium-income, then this type of proposal, given other considerations presumably in accord that are at least adequate, would get to the top of the heap among this great competition of proposals for which you have limited funds.

SECRETARY ROMNEY. I have indicated that generally where other things are equal, that the location of a housing project outside of an area of minority concentration would result in that project getting preference.

VICE CHAIRMAN HORN. All right. Now, there apparently was some confusion I think here in the minds of the Commission in response to Mr. Glickstein's question about the third paragraph on page 2 of the President's statement. What I suggest is that the General Counsel of HUD could perhaps reply in terms of that third paragraph as to which housing assistance programs really would be included in it, and which wouldn't, because as I understood, there was some difference about whether a comprehensive plan was needed or not, and I don't want to

belabor that point anymore.

(See p. 1024.)

Let me ask you in another area: As I look at that background conference held by—apparently it's public—Mr. Ehrlichman and Mr. Garment, Mr. Garment said on page 4 of the background performance that really the lead Agency would be HUD. This morning we had Mr. Ruckelshaus before us of another Agency not under the jurisdiction of your Department, and he said in response to a question that they would rely on HUD as the coordinator in this area.

Now, what this leads me to is just the question of leverage as to whether we are to interpret the President's message and your statements as being limited to simply the other leverage you have available within your jurisdiction at HUD, or are you to serve—and certainly that's the way I interpret the statements and the background—as the coordinator for all Federal activity and try to bring some sanctions if sanctions are necessary.

SECRETARY ROMNEY. We have already taken a lead with respect to the General Services Administration and working with them to work out a program with respect to the location of Federal installations.

We have also taken action with respect to the Financial agencies, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the Comptroller's Office, to get information with respect to financial institutions to determine the procedure by which we can bring about the compliance on their part.

We are working with the Department of Labor in the area of enforcement in relationship to minority employment, and so on. We are working with many other Departments and will work with many other Departments.

VICE CHAIRMAN HORN. Mr. Secretary, I take it in that case it's a matter of persuasion in your judgment with other Departments for them to invoke their leverage to help you in a particular situation, or do you really have any power under the law to be the lead agency?

SECRETARY ROMNEY. I don't have any power under the law to require them to do anything.

VICE CHAIRMAN HORN. Let me ask, Mr. Chairman, to have included in the record at this point three forms which the Secretary distributed at his press conference the other day concerning 235 housing, rent supplement, and 236 projects, as well as low-rent public housing. I think HUD is to be commended for trying to get the criteria as well as the various aspects of the program down in writing, and we ought to have that as part of the record.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the documents referred to were marked Exhibit No. 31 and received in evidence.)

VICE CHAIRMAN HORN. I wonder with these forms that you offered yesterday, plus the fact that you are going to have to depend on persuasion, what sort of coordinative mechanism do you foresee to try and pull together all the activities the Federal Government is doing in some of these metropolitan areas. Would it be at the local level, here in

Washington, or what?

SECRETARY ROMNEY. Well, we have various levels. After all, the Federal Government has a Civil Rights Committee in the Domestic Council, and through that Committee there is a means to coordinate the effort of the various Departments, and of course the Domestic Council itself becomes a coordinating mechanism at the national level.

Now, in addition we have regional organizations and regional councils at the regional level, and they become a coordinating mechanism at the regional level, and our Department has decentralized beyond the regional level and we have established area offices in a number of States, and those area offices become a means of coordinate activity at that level.

VICE CHAIRMAN HORN. Are you satisfied with the bureaucratic apparatus that exists within the Federal Government to achieve this coordination?

SECRETARY ROMNEY. No, I think the President's reorganization program should be adopted.

VICE CHAIRMAN HORN. You feel narrowing the number of Cabinet Departments would also result in similar activities at the State level?

SECRETARY ROMNEY. Sure, because if you combined all the community development activities in a Community Development Department, it would be much easier to coordinate a number of these programs we are talking about. After all, you then have the Farmers Home Administration in the Community Development Department, and you'd have all the water and sewer programs in one Department. As it is, you've got water and sewer programs in four Departments and a number of Agencies.

So what the President has proposed would permit a much more effective coordination and a much more effective administration of the programs, and furthermore you could hold a particular Cabinet officer more responsible for results.

I've done this in the Department. When I took over the Department we had two Assistant Secretaries responsible for housing production. I created a functional organization and put all the housing production under Assistant Secretary Gullledge, gave him the authority, gave him the money, and held him responsible, and it made him responsible and you can therefore hold him accountable. And I think this is one of the reasons we have been getting greater results in our housing production. The same thing works in other fields.

VICE CHAIRMAN HORN. One of the frustrations we sort of feel as we go around the country holding hearings, when we talk to regional officials in not only your Agency but other agencies, and also when we talk to builders and real estate brokers, is the frustration that they can't get decisions rapidly enough at the local level because so much clearance is required with Washington. Are you doing anything to get at this problem of decentralizing authority to a regional area basis?

SECRETARY ROMNEY. We have decentralized and we have placed the authority for most of our programs at the area level, but it needs to go beyond that. The President has not only proposed reorganization,

but the President has also proposed revenue sharing, special as well as general, and those programs are designed to avoid this red tape and delay and to get the money out to the State officials and the local officials so that they can make use of the money on the basis of their greater knowledge of local conditions and local problems. We think that makes a lot of sense, and we are hopeful that Congress will pass the Urban Special Revenue Sharing Act.

VICE CHAIRMAN HORN. Let me ask you in the President's statement, the phrase "racial concentration" is mentioned, and it could be interpreted that those plans that give you the best way to break up racial concentration in an area, or at least don't put federally assisted housing in areas of existing racial concentration, would be at the top of the list for available Federal money. What's your feeling on that? Would those be at the top of the list?

SECRETARY ROMNEY. Well, as I have indicated, we have the criteria and consequently that's a requirement with respect to the availability of the funds. If they don't at least have an adequate rating with respect to the location of the project, why they aren't eligible.

VICE CHAIRMAN HORN. Do you feel that perhaps something besides racial concentration ought to be looked at, as for example in the case of Washington, where is the job concentration? Is that a factor that would be gone into and not simply moving the project away from racial concentration?

SECRETARY ROMNEY. Well, obviously, in connection with housing you have to give some consideration to the economic conditions within a marketing area, and so on. But I have expressed great concern about the job pattern in the metropolitan areas and the need to encourage, as the President does in his statement, a metropolitan approach instead of a community-by-community approach. The hard facts are that the central cities are in my opinion not in a position to work out their problems within the central cities, and that is because jobs and other resources have moved out of the central cities to such a considerable extent.

Now, in our criteria, one of the points is accessibility to job opportunities in terms of the location of the housing project itself, and also the question of good transportation at reasonable costs; is the project accessible to good educational, commercial, and recreational facilities? That's point number 4, "improved environmental location for lower-income families". An item is "outside areas which have an excessive concentration of subsidized housing", like you have in St. Louis.

VICE CHAIRMAN HORN. Let me ask you: Moving to page 13 of the President's statement, he says there that while we all have to recognize that the various kinds of land use involved in housing site selection are essentially local, that they represent the kind of basic choices about the future shape of the community or of a metropolitan area, and that should be chiefly for the people of that community or that area to determine. Then he goes on to say: "The challenge of how to provide fair, open and adequate housing is one that they must meet; and they must live with their success or failure."

I wonder what the President meant by success. Do you have any idea of what his version of success might be?

SECRETARY ROMNEY. Creating a harmonious environment, I'm sure, a good quality of life throughout the community, and I think he was talking in terms of the real community rather than these artificial political boundaries that exist in metropolitan areas.

VICE CHAIRMAN HORN. Let me ask one last question, Mr. Chairman, and then make a request for further information. As we go around the country we find various local regional Federal officials are not completely sensitized in terms of their particular area in the broader civil rights considerations which might affect their particular program. If it's agriculture they regard their mission in some areas as: "How do you get the wheat subsidy check out?" In highways it's "How do you put a freeway here?" In Housing it's sometimes: "How many housing applications have you cleared?"

I just wonder what are you doing as the chief executive of HUD to sensitize your various regional officials to broader considerations than merely laying down a lot of houses?

SECRETARY ROMNEY. Well, we have an equal opportunity structure within the Department that operates at the regional level and the area level as well as the national level, and requirements for that concern to be injected into the consideration of these programs and applications. Furthermore, they are constantly monitoring the situation with a view to making certain there is a recognition of the importance of this area of concern. Now, in addition, we are working with State organizations, local organizations; Secretary Simmons has had training sessions for State officials. He's meeting with private groups, leadership groups, with a view to increasing their concern. We have many activities designed to increase the awareness in our Department as well as to increase the activity on the part of State and local governments, and also on the part of private groups.

Now, with the President's policy statement, we are going to be in a much better position to move forward in this respect. To some extent we have been hampered in carrying out a fully effective program, and with a decentralized organizational structure such as we now have, where the bulk of the decisionmaking with respect to the granting of funds is out at the area office level, you do need clear-cut policies and clear-cut project selection procedures to enable them to function within the framework of sound direction.

VICE CHAIRMAN HORN. On that last point, do you see your area directors, now that they have this authority at the regional level, as really serving as a lead Agency to administer what has been referred to by the President's advisors as a national policy in housing with HUD as the lead Agency? In other words, do you see an active aggressive role of trying to pull together the actions of EPA in a region in relation to HUD prior to, say, the approval or rejection of a particular request for funds, grants, or assistance?

SECRETARY ROMNEY. Well, are you talking about EPA's environmental activities or—

VICE CHAIRMAN HORN. I just picked out one Agency.

SECRETARY ROMNEY. I don't know that EPA is in the housing field.

VICE CHAIRMAN HORN. They really aren't but they are in, say, other activities of Federal construction, and of course we are looking at a broad interpretation of Title VI combined with Title VIII.

SECRETARY ROMNEY. Well, we just reached this agreement with GSA with respect to Federal facilities, whether leased or built, and that would apply to EPA or any other governmental operation. The President has recommended, in the environmental package that he submitted to Congress, land-use planning which would have application to the environment and also the community development, and under that proposed legislation we would have the key responsibility for the community element aspects of land-use planning. We think that it's time to encourage States and metropolitan organizations and local communities to do more effective jobs of land-use planning because that ties right into the housing situation.

VICE CHAIRMAN HORN. I guess what I'm trying to nail down is, on these three forms which you distributed yesterday, which will really be judged at the local level by your regional people based on a metropolitan area, would any considerations go into the approval or denial of a particular project other than HUD considerations? Would any other Federal Agencies' activities in relation to that community be brought to bear before HUD decides whether they grant the assistance or don't grant the assistance, or is it just HUD activities and coordination that those regional people are going to be concerned with?

SECRETARY ROMNEY. Well, obviously, the activities of other Departments have some impact on some of these other criteria.

VICE CHAIRMAN HORN. That's right.

SECRETARY ROMNEY. And certainly that means that we would be taking them into consideration.

VICE CHAIRMAN HORN. Okay, so there will be some process to get their input then prior to decision?

SECRETARY ROMNEY. Sure.

VICE CHAIRMAN HORN. Now, I'd like, Mr. Secretary, if your Department could furnish for the record, based on the charts that we were shown, the actual number of housing units by those three time periods constructed inside the city boundaries and outside the city boundaries, so that we cannot only relate the particular trend in projects but the particular trend in dual housing units.

SECRETARY ROMNEY. It will take us a little time to get the number of housing units but we will undertake to do it.

CHAIRMAN HESBURGH. I think, also, Mr. Secretary, the racial composition when available. I know all those facts aren't in yet, but that would be very helpful for our future planning.

SECRETARY ROMNEY. Well, that's information of the type that we are in the process of developing, and that could take some little time.

CHAIRMAN HESBURGH. That's all right. We don't mind as long as

we get it when it's available. The Government Printing Office is to do our hearings anyhow.

Mrs. Freeman, would you like to ask a question?

COMMISSIONER FREEMAN. Mr. Secretary, yesterday Mr. Brown, the Director of the Census, presented to the Commission the population of 12 metropolitan areas which revealed that in the suburban communities, as against the central cities, there had been between 1960 and 1970 in every single instance less than 5 percent change of the population, the black population, into suburbia, which means on this question of suburban access, it is just as difficult to get into suburbia now if you happen to be a member of a racial minority as it was 10 years ago.

You indicated in your earlier testimony that FHA policy and program has had very little impact or has shared very little responsibility for this.

SECRETARY ROMNEY. I don't think I put it quite that way, Mrs. Freeman. I just indicated it was not something that had shaped the whole thing. I think I pointed out that really the Nation had a segregation policy, and it was reflected in FHA and reflected in other places, and it was an important part of it.

COMMISSIONER FREEMAN. Well, I want to speak to the role of FHA now. From the beginning of the program through fiscal 1970, almost eight million home mortgages valued at over \$46 billion have been insured. That's under the 203-B program. Going closer to home, my own home of St. Louis, St. Louis County has received 74 percent of all of the FHA loans on a punitive basis, and even for the Fiscal Year 1968 St. Louis County received 74 percent, and also our figures show that this kind of trend has been true throughout most of those metropolitan areas. Now, our concern is with the way in which there will be some realistic change.

Now, one of the problems that the Commission found in our Civil Rights Enforcement Effort Report was that in some instances the decision is made—and I will say with respect to FHA now—by executives or staff of FHA who were formerly members of the real estate industry which is responsible for the exclusion in the first place.

So my first question to you would be with respect to the bureaucracy itself, the extent to which in this change or this program for change that's going to be made, whether those persons who make the decisions, whether they are the same people who were responsible for the exclusion in the past. Are they still with FHA?

SECRETARY ROMNEY. Well, I think under Civil Service we have many people who have been with FHA for a long time, and I don't know that there's much you can do about it.

COMMISSIONER FREEMAN. There is such a program called redlining of areas.

SECRETARY ROMNEY. There isn't now. There used to be.

COMMISSIONER FREEMAN. Under such a program there were certain districts in a city, for instance in the city of St. Louis—

SECRETARY ROMNEY. There used to be, Mrs. Freeman, as you

know, but that's not true now.

COMMISSIONER FREEMAN. When did that stop, sir?

SECRETARY ROMNEY. I think that stopped in '65, back in there.

COMMISSIONER FREEMAN. Is it possible that the policy did not get back to some of the persons in—

SECRETARY ROMNEY. If you are asking me if all of the FHA personnel changed overnight, no. People don't change that fast. People change more slowly than almost any other thing on the face of the earth.

COMMISSIONER FREEMAN. Well, what we'd like to do is see what we can do to help them change.

SECRETARY ROMNEY. I would too, Mrs. Freeman, by being able to confront them with directives that they have to follow in specific terms, such as we presented here. We are going to be in a much better position to judge them as to whether they have or they haven't. And if we have some that don't conform with this, then we have a basis of getting rid of them. Now, we've gotten rid of some of these FHA personnel in connection with this investigation of 235 existing, where they were not carrying out their responsibilities properly, and we have been able to dismiss some of them, despite Civil Service and the problems of changing personnel. I assure you it's a much different problem to change an organization in Government than it is as head of a company, and I know the difference.

COMMISSIONER FREEMAN. Well, may I go on to another concern. One of the problems has been that there are some communities that do not want poor people.

SECRETARY ROMNEY. Black and white.

COMMISSIONER FREEMAN. That's right. But the Congress in the 1970 Housing Act—

SECRETARY ROMNEY. I mean black and white communities that don't want poor people, black people that don't want poor people as well as white people.

COMMISSIONER FREEMAN. That's right. Very few people that have more than \$5 want poor people. Poor people don't like poor people.

CHAIRMAN HESBURGH. Poor people don't like themselves.

COMMISSIONER FREEMAN. I want to call to your attention Section 504 of the Housing and Urban Development Act of 1970, which provides for experimental housing allowance programs, monthly housing allowances to families in such localities determined by the Secretary to have an adequate supply of housing units. Now, this would be an area, it seems to me, in which, if money would be given to that family, that that family could move into an existing house, without causing too much—maybe he'd have to sneak in, but anyway it wouldn't cause too much difficulty if he got the funds from HUD.

I'd like to know, first, the plans of HUD for implementing it and, second, if Congress has made an appropriation and the amount of the appropriation and the extent of implementation to date.

SECRETARY ROMNEY. Well, we are in the process of undertaking some research projects. Congress directed us to do so but they didn't

appropriate any special money for the purpose. They told us to take money out of our regular research budget.

Now, Secretary Hyde reminds me that we have one such project going in a Model City area in Kansas City, but we also are structuring other tests of a larger character, and we are hopeful we will get the funds from Congress next year to undertake the tests. We think it's something that should be thoroughly explored.

COMMISSIONER FREEMAN. I was going to ask you, Mr. Secretary, if you would comment on this provision as a potential for desegregating some of those hardcore bigoted communities.

SECRETARY ROMNEY. Well, of course what it would mean is individual families would have resources with which to go out and locate their own housing to a greater extent, and I think private initiative in that respect would perhaps produce somewhat greater distribution, although I think it's difficult to say with certainty what would happen. As a matter of fact, Mrs. Freeman, it seems to me that with adequate opportunity to move, and with adequate income, that there isn't anyone that can sit here and say at this point what patterns of grouping would develop in this country. I really don't know. Now maybe some people are smart enough to know what patterns would develop. I do know that I've gone into many urban renewal areas where the people are bitter at the idea that they are not going to be able to remain and live right in the area that they have been living in. As a matter of fact, the black people are divided. There are many black people who think the idea of increasing the housing opportunity outside of the central city is an effort to weaken black political power, and so on. There are many viewpoints in this situation, and I am quite frank to say that I don't know just what will happen given equal opportunity and freedom of choice, but I do believe the President is right in saying that everyone should have the right, and everyone should have the ability, and there should be mobility, so there can be movement in this situation. Now what patterns will develop I don't know.

Let me give you a specific example, and I am going to fuzz it up a little bit because the individual might be identified too clearly otherwise. But in any event, there was a black man in Michigan who had the respect of the whole State. He occupied a very important State position. He accepted a position in private employment, a good paying job in Detroit. He had been living outside of Detroit. And a black Federal judge, who lives in one of the better parts of Detroit, urged this black man to go out and locate a house in a completely new area in Detroit where there were no black people—because he could, there isn't any question about him being able to do it—but he said: "I don't want to." He said: "Why do you want me to go out there and live way out there some place? I want to live with my friends. I want to live with the people I know."

Now, I don't know frankly what people will do when they have complete freedom of mobility. I am for getting them complete freedom of mobility. I am for enabling them to have freedom of choice, and I think the freedom of choice is going to result in great diversity, and I think

also that that freedom of choice must be on a metropolitan basis, as a matter of fact, a State and national basis, and I think it's got to include housing of various types so people can live within a reasonable distance of their job and daily activity.

COMMISSIONER FREEMAN. You do agree with me, then, that the freedom to choose is not now a reality?

SECRETARY ROMNEY. Oh, sure, sure.

COMMISSIONER FREEMAN. That you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. Mr. Secretary, could I address myself to Secretary Simmons?

SECRETARY ROMNEY. Sure.

COMMISSIONER MITCHELL. I do that because he was once a member—

SECRETARY ROMNEY. He's an alumnus.

COMMISSIONER MITCHELL. —an alumnus of the Civil Rights Commission, because one of the things that has troubled the Commission about Agencies like HUD is that in the development of some of its programs in which we have special interest, those people on the staffs of various Agencies who share that interest and that background, not always involved in the upper policy making levels—I suppose it's really pointless to ask him with his boss sitting over to his right, but what I am interested in is whether the Secretaries with you have all shared in these policy determinations and whether they understand the considerations, as Mr. Simmons does, or the Civil Rights Commission, whether they share your satisfaction with the position you now find yourself in and your hopes for the future. Maybe Mr. Simmons can speak the language of the Commission for a moment and respond to that.

MR. SIMMONS. All the people here at the table were involved in terms of the formulation of these policies and do play a key role in really trying to institutionalize the equal opportunity process. I think that the key thing that is involved, the key thing that I have been concerned with is that too often in the past the equal opportunity was an *ad hoc* process that was really dependent upon who the people happened to be in office at that time. Out in the field it would depend upon how wise and how smooth an individual was and what he was able to achieve.

The key thing that we are trying to do in terms of these procedures here now is to institutionalize the equal opportunity process so that an individual who is not an equal opportunity specialist can carry this out on a day-to-day basis and achieve the goals that we are talking about. This is the key thing we have been working at, and I would say this is the kind of concepts that are held by the top people at HUD.

COMMISSIONER MITCHELL. Mr. Secretary, you have your hands on the jugular of the great problem that has split this free society and threatens to fragment it. I appreciate your frankness in describing the realities of the past because they are now an indelible part of the record, the history of this country anyhow, and I for one am glad to have had you here and do not see how my colleagues on the Commis-

sion could do anything but rejoice at your willingness to make the representations you are making and to advance those made by President Nixon. I find it unthinkable that you are making representations that are not sincere and that you don't intend to deliver on them. I recognize that you are dealing with problems that aren't always predictable, and you have already said that, but I would like the record to show that this Commissioner at least is greatly impressed by this presentation and feels that you are reflecting what is a great hope for the citizens of this country, poor or a minority group who wants to live somewhere of his own choice.

SECRETARY ROMNEY. Thank you. Let me say this in response, Mr. Commissioner, that when you combine the problems of the cities with the problems of housing and race, you have the most complex, sensitive, and explosive problem in the Nation today. It's the number one problem domestically. There isn't any question about it. And this Nation will sink or swim on its ability to solve that problem, and to an extent the world, because if we can't work this out we won't be able to work it out on a world basis, and with transportation and communication being what it is, it becomes more urgent on a world basis as well as a domestic basis.

COMMISSIONER MITCHELL. This is one area in which, in my opinion, the people of this country cannot take many more disappointments. They have had incredible tolerance in other areas, and sitting on the university campus I have watched the extent to which they could be confused by many other social changes. We are not talking about the grownups, about a segment of our society that has got explosive implications, as you and I both know from different vantage points, and those who keep saying that time is running out are speaking a real truth when they speak now about housing.

SECRETARY ROMNEY. That's right.

CHAIRMAN HESBURGH. Dr. Ruiz, do you have any questions?

COMMISSIONER RUIZ. I've been sitting by here listening objectively and it's rather an advantageous position to be in the far end of the table here.

I have noted that unfortunately some sources have misconstrued some language which is contained in the President's message. The President's statement has been misinterpreted in some points as I have heard the testimony develop here. Now, far be it for me to pretend to write a Presidential speech. I personally admire Mr. Nixon's many fine qualities. I owe my appointment on this Commission to the President. I make reference to page 4 of the statement of Secretary George Romney for release—

CHAIRMAN HESBURGH. Dr. Ruiz, is that the statement yesterday or . . . ?

COMMISSIONER RUIZ. Let me see here. It says 4 p.m. Tuesday.

SECRETARY ROMNEY. That's today, I guess.

COMMISSIONER RUIZ. That's today, yes. And I call attention to the paragraph that starts out: "What the President has said is that the Federal Government is not going to create an army of Federal zoning

officials to march through thousands of individual suburbs, substitute Federal zoning for local zoning, and thus impose low- and moderate-income housing or economic integration by bureaucratic fiat."

I am assuming for purposes of my statement that the laws of the bureaucracy are clear and in regulations and enabling legislation.

SECRETARY ROMNEY. Well, that's a big assumption to make, because the law isn't clear.

COMMISSIONER RUIZ. I am going to make reference to what our President said the other day. I am going to substitute the word "communities" used by the President in his statement, with the words "government agencies" in lieu thereof. But the President also said: "We will encourage communities to discharge their responsibility for helping to provide decent housing opportunities to the Americans of low- and moderate-income who live or work within their boundaries"—and substitute the words "government agencies" to read: "We will encourage the government agencies to discharge their responsibilities for helping to provide decent housing opportunities to the Americans of low- and moderate-income who live or work within their boundaries."

Now, going to the next paragraph, the President said: "We will encourage communities to seek and accept well-conceived, well designed, well-managed housing developments"—and substitute the words, "We will encourage the government agencies to seek and accept well-conceived, well-designed, well-managed housing developments."

Now, don't you believe that this would have cleared up some of the misconception if those words had been used instead of "communities", sir?

SECRETARY ROMNEY. No, sir.

COMMISSIONER RUIZ. Now, will you state the basis of your opinion?

SECRETARY ROMNEY. Sure, because in the metropolitan area of Chicago you've got 1,110 separate autonomous units of local government.

COMMISSIONER RUIZ. What has that to do with encouraging government agencies to discharge their responsibilities particularly with respect to the fact that the local government ties into municipal government and State government, and that there are assistance of funds from the Federal Government that go to the local agencies.

SECRETARY ROMNEY. Well, the fact that in my opinion you can't get at this problem effectively on a general purpose by general purpose government basis; and these are highly fragmented metropolitan areas, and you need a broader basis on which to deal with that.

COMMISSIONER RUIZ. Well, I am agreeing with you that you do need a broader basis with which to deal and that broader basis is the Federal Government, and that the Federal Government agency should be encouraged. Do you disagree with me?

SECRETARY ROMNEY. No, I think they should be encouraged, and we are encouraging them, Doctor. I also pointed out in my testimony that you need more than just the government agencies. You not only need the national Government agencies, you need the State agencies,

you need the local agencies, and you need private leadership.

COMMISSIONER RUIZ. You have so stated in your testimony. I am referring to the President's statement, if this would not have been better stated in order to clear up this misconception.

SECRETARY ROMNEY. What misconception?

COMMISSIONER RUIZ. The fact that the President is not encouraging government agencies.

SECRETARY ROMNEY. Why should you have that misconception? If you read his statement it's certainly clear that he is encouraging. He is not only encouraging government agencies, he is also encouraging private groups. If you will turn to page—

COMMISSIONER RUIZ. He says the Federal Government.

SECRETARY ROMNEY. —14, "This Administration will offer leadership in encouraging local and State governments and housing authorities to address this question creatively and imaginatively, and to address it with a keen understanding of the needs of those persons for whom the housing is better provided as well as the needs of the community at large.

"Local and State authorities, for their part, should continue to respond constructively, pressing forward with innovative and positive approaches of their own. For it is they—and beyond them, it is millions of Americans individually—with whom the challenge primarily rests. We are dealing here in a realm in which Federal authority, while substantial . . ."—and then he goes on to point out the need for activity on the part of all government agencies and levels. He did that.

COMMISSIONER RUIZ. Now, I was very glad to hear of your affirmative plan to tie together the fragmented civil rights responsibilities of the various Agencies, and if you are working on a plan to institutionalize, as Mr. Simmons said, the structure into the housing community and the housing responsibilities of HUD, I think we are going to go some place, and the sooner that's done the better it's going to be.

SECRETARY ROMNEY. Well, thank you. I don't want to leave you with a misconception here. I haven't indicated that we are going to be able to coordinate the activities of all the Federal Departments here in this area suddenly. I have indicated some of the areas where we are moving, and I have indicated the structure that exists within the Federal Departments to get at this on a coordinated basis through the Civil Rights Committee of the Domestic Council.

COMMISSIONER RUIZ. The only reason I made reference to that is because the words, "HUD is going to take the lead" perhaps is also unfortunate because testimony we have received heretofore apparently has given some of us the impression that a lot of these agencies are passing the buck over to HUD, and that is the reason I reacted when Mr. Simmons said: "We are going to try to tie these things together and structurize it in such a fashion to make it more efficient."

SECRETARY ROMNEY. Well, again, I think he was referring to the effort we are making here and that's what's happening.

COMMISSIONER RUIZ. Well, I want to congratulate you. I think it's a very excellent effort, and the quicker it's done the better it's going to

be, because the buck is going to stop some place and will have to stop.

SECRETARY ROMNEY. Well, again I want to say that I think the President is right, that this is a problem that you can't pin on just an individual or a department, and I again want to submit to you that this is something that leadership at all levels needs to be involved in. I have had the responsibility at the State level. I know what happened when we got a civil rights commission in the State of Michigan. All of the mayors and city councilmen said: "Goody, we won't have to pass fair housing ordinances." So I got them all together, and I said: "I want you to know that the State government can't assume the full responsibility to handle this problem. It's too deep, it's too pervasive, it's too difficult. Leadership at every level has got to stand up and be counted here, and we are just as concerned about having fair housing ordinances passed by local governments as we were before, because if you do your part and we do our part it's still going to be a long time before we work this problem out."

Now, let's be realistic about this. The hard facts are that many black people now are beginning to show the same tendencies that white people have been showing in relationship to low- and moderate-income families, as Mrs. Freeman and I were discussing. Furthermore, there's still the fact that if you give mobility people still move. And I just think that the question is, has the President outlined programs that will move us from where we are and make more progress? Now, to make more progress in my opinion, we are going to have to have policies that will not create greater resistance on the part of those whose help is needed to make progress. And at the same time, we've got to maintain the hope of those who need change, that they can get change, and this is not a simple situation to deal with. It's complex. It's sensitive. It's emotional. And the question is, has the President taken the steps here and have we taken the steps that are in the right direction, and will they move us from where we are and move us on in the direction we ought to be moving in.

COMMISSIONER RUIZ. Your philosophy is accepted.

SECRETARY ROMNEY. Thank you.

COMMISSIONER RUIZ. My purpose was to bring out the fact that the Federal Agencies should take a more positive stance in this entire picture.

SECRETARY ROMNEY. Thank you.

CHAIRMAN HESBURGH. Mr. Secretary and gentlemen, we thank you very much for being with us today. I am going to say only one short word, and I think it should be said because I have been, like yourself, facing this problem for the last 14 years as a member of this Commission. And I have found that of all the problems we have undertaken, this is perhaps the stickiest, the one most given to frustration. We began on voting and I think we have licked the voting problems more or less. People can register to vote today and millions of them couldn't before.

I think we have made enormous progress in public accommodations which were closed in so many areas and now are open in so many areas,

in almost all areas of public life.

I think we are left with this kind of inextricable trilogy that you can't solve anything separately here. You've got to solve it all at once or across the board, step by step, in housing and education and employment. And the whole nut of the problem as we have been seeing it is that as our urban situation has been developing vis-à-vis the suburban situation, we are finding a concentration of blacks in one area and a concentration of the job opportunities they need for mobilization upwards in another area. We are finding that after spending billions of dollars on housing, the fact is that it probably had a terrible social effect on the whole fabric of American life, because we have concentrated housing in a way that has represented to the whole world our prejudices and our hatreds and our smallness of spirit.

I think there has been more difficulty in solving the housing problem as we have moved around in hearings about the country than any other problem we have faced. I think we are going to lick the education problem eventually. We are going to lick the employment problem. But we can't lick it without licking the housing problem. The thing that really bothers me is that 10 years ago, 1961, I made a minority statement in one of our reports, and almost everything I said in that statement regarding housing I could repeat today with equal truth. That doesn't mean we haven't made some progress, but it means the progress has been so slow that those that are faced with the problem I think are frustrated to a point that's easy to understand and difficult to imagine continuing.

While I am happy that this week we have seen so much talk about housing—we've had the President's statement, we have had the press conference of yourself and our Attorney General, we've had the background statement of the White House, we've had the hearing here in this building and will continue tomorrow and part of the next day—but I must say that I am not filled with enormous hope. I am filled with some confidence that you, sir, have all of the high ideals of what ought to be, and that are trying to make some progress on what can be right now today and tomorrow and the next day, but I think that you are perfectly right when you say that this problem is not going to be solved by a Presidential statement. It's not going to be solved by HUD. It's not going to be solved by anything but a total effort of this country and a total effort of this Government, and I believe throughout the Government we have seen so many fine statements and so much rhetoric and so much of the carrot and the stick, and I think you could probably qualify the President's statement by saying it goes heavy on the carrot and light on the stick. But the fact is that there is motion forward, and there is rhetoric that says the right things, but I just hope to God that we are not saying words and not pointing to reality, because we cannot go on in this country with the kind of frustration, at least I've seen up close over 10 years, of continual rhetoric and continual planning and changing of administrations, and all the political process.

So what I would say is, I repeat what Chancellor Mitchell said, that we've had a good conversation here with you today and I hope we can

have some more conversations. When we oppose you publicly in reports of one kind or another, there is nothing personal in it because we want to be as eager to get to that goal as you.

I think I would disagree with you when you say you can't put on pressure for what ought to be. I think we've got to put on pressure for what ought to be. And I think what ought to be, if I could paraphrase it as a concluding statement for today's hearing, is that every human being in America ought to have the same opportunities, and every human being in America, wherever he happens to be born, into a poor or rich family, ought to have the same kind of human dignity, and that ought to be recognized by everybody, and every American somehow should have the same hope. That isn't true today. Until it becomes true we are going to keep pressing for what ought to be. And I think as Bobby Kennedy, maybe quoting somebody else, said: "Don't look at what is and say that's it"; say, 'Why can't it be different?'" And I think we've got to make it different.

SECRETARY ROMNEY. Dr. Hesburgh, I said "too much pressure". Now, there's a difference between what you are talking about and what I was talking about. I didn't say just "pressure"; I said "too much pressure".

CHAIRMAN HESBURGH. Well, I disagree in any event.

SECRETARY ROMNEY. All right, but let me respond also on this point. I do think it takes mobilization of national leadership, and I think that includes private leadership.

CHAIRMAN HESBURGH. I agree with you.

SECRETARY ROMNEY. And we are working with plans of that character, because that was necessary in connection with the job situation. As a matter of fact, the National Alliance of Businessmen emerged out of just such an effort. That's been necessary in the school desegregation effort, and it's going to be even more necessary in this effort because this deals with a much more intimate and difficult situation as you have indicated.

CHAIRMAN HESBURGH. Well, the reason I said I differed, I don't think you can have too much pressure in this country today for what ought to be, because it's the price of our survival as a Nation, I think.

SECRETARY ROMNEY. Well, look, I again want to say that if you put so much pressure on what ought to be you get so idealistic up here that you prevent what can be and you stop progress, because you get everybody's attention focused up here.

Now, I was at the Mayors' Conference yesterday and the mayors wanted to attack the President on the basis that the President hadn't included in his statement a provision to cut off all Federal funds if any community discriminated on any program, in the application of any program.

Now, under today's circumstances that we have to face, to attack the President on the basis of what they think ought to be, and to undermine what he is trying to do here, is to put too much pressure on what ought to be perhaps, in their terms, and to prevent what can be. And furthermore, as I pointed out, what ought to be, maybe that would be

in the direction, but again if you put too much pressure way up here instead of being where you can build, and you criticize those and undermine the support of those who are trying to make realistic progress and to build from where things are, then it undercuts progress. That's my point.

Look, I can speak just as fervently, I think, as anyone in this country about what ought to be in broad terms. I am not talking about that. I am talking in terms of specific programs of application, of practical effort, of methods to get things done at any given time, and you have to start within the realities and build from there or you are building in midair and you don't get anywhere if it's too idealistic or if it's completely unrealistic.

CHAIRMAN HESBURGH. I don't think it's too idealistic though, Mr. Secretary, to say that we are aiming at a point in American life where buying a house is like buying anything else. There's something distasteful wrong with America when a white prostitute can buy a house that a black professional man can't buy.

SECRETARY ROMNEY. I don't disagree with that. But what are you going to do about it? How are you going to correct it? I am not talking about that sort of pressure. I'm talking about my Department cutting off all funds because a community has discriminated on one program. I don't have authority to do it. And when I'm put in that position it undermines my ability to get a job done. It undermines confidence in me. I have no authority to do it. That's why I talk about pressure to do what ought to be maybe, but I have to do what can be done.

CHAIRMAN HESBURGH. But the beauty of the ideal, I think—someone said it's like the stars; you may not reach them but you chart your course by them. But at the same time, we went to the President of the United States a few times back and said to him: "We think it's a terrible thing in this country that Federal money is being used in a discriminatory fashion and we ought to put a provision in the laws that it be cut off." We were talking about Title VI, of course.

He said: "That's ridiculous; it's unconstitutional; I don't want that power."

The fact is we got that power and it's made quite a turnaround in the whole progress in civil rights.

And I would personally agree, although I didn't consort with the mayors in this, that this country is never going to reach this goal until it says clearly to every community: "If you don't believe in the Constitution of the United States and the Bill of Rights and you are not willing to live that out in your lives and not be governed just by sheer prejudice, you aren't going to get any Federal funds."

SECRETARY ROMNEY. Look, I made talks like that for years. I'll send them to you, Doctor. If there is anyone who has a more profound conviction about the brotherhood of man and the fatherhood of God and the fact that men were raised up to write the Constitution of the United States, and divinely inspired in writing it, I'd like to know who it is. Now, that isn't the question. The question is the practical process of getting things done, and the methods and administration and the

laws and the factors you have to deal with. I'm not talking about the idealism of it, but I'm talking about—well, I have reached my point.

CHAIRMAN HESBURGH. Well, I think we are probably talking on the same lines, Mr. Secretary, but I am merely saying this, that we are coming up on our 200th anniversary of the Nation and its founding and its ideals that were put out at that time, and 200 years is a pretty long time to get somewhere in this, and we are getting somewhere. I guess what I am impatient with is the fact that something I said 10 years ago in this field I could say again today.

SECRETARY ROMNEY. Well, let me be realistic, if you want to be realistic, I mean if you want to get progress. In my opinion if you want to block any progress in this housing field in the years immediately ahead, you really mount a national program that is focused on the idea that you are going to force low- and moderate-income housing into every community in this country, and if they don't take it you are going to cut off all their Federal funds.

Now, I want to tell you that, based on the hard realities of the situation, that will be counterproductive at this point, because the people of this country are not ready to support that sort of approach; the representatives in Congress are not ready to support that sort of approach. I believe that any American citizen ought to have the right to live in any community in this country, given the economic circumstances and other things to do it, but by golly if you undertake at this time to go as far as the mayors wanted to go, it will be counterproductive in my opinion. Now I may be wrong, but I do think that there are things we can do beyond what we are doing, and let's go after them.

CHAIRMAN HESBURGH. Well, I guess maybe where we may disagree a little bit is on what can be done. I think what's right can be done, and what we are doing now is not right, and much of what the Government has done in the past has been very wrong and we've got to counter that now.

SECRETARY ROMNEY. Well, I think where the dialogue ought to focus is on this question of what ought to be done. Now I've made it perfectly clear that I think if we are going to make real progress in dealing with this problem, one of the things that ought to be done is to get at it on a metropolitan basis instead of this fragmented governmental basis, that in my opinion if you focus attention on forcing this into every little fragmented community in this country, at this point, you are not going to make the progress that you will make if you undertake to get it on a metropolitan basis.

CHAIRMAN HESBURGH. I think we are agreed on that.

SECRETARY ROMNEY. All right, but this is important, because if you take the wrong approach here it delays. Now I think the metropolitan approach doesn't.

CHAIRMAN HESBURGH. What you are really saying is we have got to reorganize the political structure of this country to build on Federal-State, and it needs something down below there other than the village or the township or the big city.

SECRETARY ROMNEY. Or make metropolitan housing planning

meaningful. And when I say make metropolitan planning meaningful, I mean this: I don't think it's important that every community in a metropolitan area have low- and moderate-income housing, but by golly I think there ought to be enough communities around through that metropolitan area that ought to have low- and moderate-income housing so that poor people, black or white, can live within a reasonable distance of where their jobs and activities are. That's what I mean by getting at it on a metropolitan basis. Now, there may be communities—and I think there are some—where they may want to do it on a total basis as Dayton has done. Good, let's do that. But it seems to me the effort ought to be focused on the metropolitan approach rather than this suburb-by-suburb approach, because we need housing in the central cities and in the suburbs and in the small towns throughout the country.

CHAIRMAN HESBURGH. Good. Well, thank you again, Mr. Secretary, and I will prove what great magnanimous spirit I have by giving you the last word. Thank you very much.

We are adjourned until tomorrow morning.

(Whereupon, at 6:30 p.m., the hearing was recessed, to reconvene at 9 a.m., Wednesday, June 16, 1971.)

UNITED STATES COMMISSION ON CIVIL RIGHTS

WEDNESDAY, JUNE 16, 1971

VICE CHAIRMAN HORN. The U.S. Commission on Civil Rights will be in order. I will swear in the new reporter.

Lee, if you will raise your right hand, and repeat after me.

(Whereupon, Mrs. Lee Dotson was sworn in as Reporter.)

VICE CHAIRMAN HORN. Ladies and gentlemen, this morning we will begin with a panel consisting of Mr. Percy Sutton, the president of the Borough of Manhattan; Mr. Neil Newton Gold, director of the Suburban Action Institute; Mr. Herbert Franklin, executive associate at the National Urban Coalition; and associate professor David Trubek, who teaches law at Yale.

If these four gentlemen will come forward we will swear them in and begin the questioning.

(Whereupon, Mr. Percy Sutton, Mr. Neil Newton Gold, Mr. Herbert Franklin, and Mr. David Trubek were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. PERCY SUTTON, PRESIDENT, BOROUGH OF MANHATTAN, NEW YORK, NEW YORK; MR. NEIL NEWTON GOLD, DIRECTOR, SUBURBAN ACTION INSTITUTE, WHITE PLAINS, NEW YORK; MR. HERBERT FRANKLIN, EXECUTIVE ASSOCIATE, NATIONAL URBAN COALITION, WASHINGTON, D.C.; AND MR. DAVID TRUBEK, ASSOCIATE PROFESSOR OF LAW, YALE UNIVERSITY, NEW HAVEN, CONNECTICUT

VICE CHAIRMAN HORN. Mr. Powell, you may begin.

MR. POWELL. Would you each please state your name, address, and position for the record?

MR. SUTTON. I am Percy Sutton, 10 West 135th Street in Manhattan, New York City. I am—that is what you asked, the name and address?

MR. POWELL. Name, address, and position, for the record.

MR. SUTTON. Yes, I am president of the Borough of Manhattan, and for those who may not know what a Borough President is, he's a disappointed mayor.

MR. POWELL. Thank you.

MR. TRUBEK. My name is David Trubek, 421 St. Ronan Street, New Haven, Connecticut. I am an Associate Professor of Law at the Yale Law School.

MR. GOLD. I am Neil Gold, 180 East Post Road, White Plains, New York, and I am the Director of the Suburban Action Institute.

MR. FRANKLIN. I'm Herbert M. Franklin, 3730 Oliver Street, Northwest, Washington, D.C., and I am the executive associate at the National Urban Coalition.

MR. POWELL. Mr. Trubek, what is your area of specialization?

MR. TRUBEK. I teach in the fields of land use planning and property law.

MR. POWELL. Did you recently undertake some research for the Commission?

MR. TRUBEK. I did.

MR. POWELL. Would you describe the nature of that research?

MR. TRUBEK. I examined the cases that had been decided in the State courts in the last approximately 10 years in the area of land use controls that affect access of minority and disadvantaged groups to the suburbs and also this legislation in State legislatures having the same implications, and analyzed these against general goals of open access to housing and employment.

MR. POWELL. I have here a paper entitled, "Will State Courts and Legislatures Eliminate Exclusionary Land Use Controls?" dated June 16, 1971. Is this the paper you prepared for the Commission?

MR. TRUBEK. It is.

MR. POWELL. Mr. Chairman, at this time I would like to have this paper introduced for the record.

VICE CHAIRMAN HORN. Without objection, this paper will be inserted in the record at this point.

(Whereupon, the document referred to was marked Exhibit No. 32 and received in evidence.)

MR. POWELL. Mr. Trubek, what generally are the purposes of land use controls?

MR. TRUBEK. The purposes of the land use control system in the United States are stated in the legislation in extremely general terms. They are stated to be—to promote the health, safety, morals, or the general welfare, and usually, and there are exceptions to this of course, usually the legislation does not specify any more precise purposes than these obviously expansive ones that I have stated.

MR. POWELL. Mr. Gold, how do land use controls inhibit minority access to the suburbs?

MR. GOLD. They do so in two ways. The restrictive land use controls prevalent in today's suburbs result in the development of housing at rents and prices which preclude roughly 80 percent of the American people from securing access to new housing. Minority groups, black, and Spanish speaking groups, particularly, are generally in the lower half as opposed to the upper half of the income distribution in the Nation, and, therefore, they are in effect precluded from competing for the housing that is developed in the suburbs by the nature and the results of these land use controls.

The second effect of these land use controls and the general knowledge of the consequences in terms of housing price is to preclude black

and Spanish speaking families from conceiving of the suburbs as an alternate residential site for themselves and their families. And so the land use controls apparently in existence today turn out to have a rather debilitating effect upon the capacity of minority groups to exit from the central cities.

MR. POWELL. Mr. Trubek, given a discriminatory effect, can an actual intent to discriminate typically be shown?

MR. TRUBEK. I think that the typical situation in which land use controls of the type described by Mr. Gold have this effect don't result or arise from what might be called a specific discriminatory motive, certainly not a clear-cut and easily identifiable one. The case of Black Jack, which has been discussed, is rather unusual in that there were no zoning land use controls in general in existence in this area. But in a typical situation, policies which were established a long time ago for a variety of very complicated motives are simply maintained by suburban jurisdictions and this maintenance has the effects described by Mr. Gold, without arising from any clear-cut, easily provable, or identifiable motive.

M. POWELL. Despite the discriminatory effect of land use controls in some cases, do they nevertheless have a valid purpose?

MR. TRUBEK. Well, they have a variety of purposes, and many of them are valid, and the major problem with land use controls is not that they are without valid and legitimate purposes, but that frequently they are employed for purposes which are not valid or they are—valid purposes are pushed to an excess, and so on. So that, for example, density controls, which are at the heart of our land use controls system, have many valid purposes. When they are employed, however, not to further the legitimate concerns for maintaining reasonable densities but rather to stop development or to increase the minimum cost of housing beyond that that can be afforded by large percentages of our population, then they lose their validity.

MR. POWELL. Mr. Franklin, would you agree with this? Would you care to comment on this?

MR. FRANKLIN. Yes, I do agree with this and the particular problem arises in the connection with federally assisted housing because usually that housing is the most visible effort to provide housing for racial and income groups that are in effect discriminated against by the land use controls that Mr. Gold and Professor Trubek referred to, so it's in these contexts, particularly, where the conflicts arise.

MR. POWELL. Mr. Gold, testimony adduced at this hearing is to the effect that job opportunities are increasing much more rapidly in the suburbs than in central cities. Does your research support this conclusion?

MR. GOLD. Yes, it does. Let me say that the movement of jobs to the suburbs in our metropolitan areas is a nationwide phenomenon that is, practically speaking, irreversible. There is simply no possibility of building an employment base in the central cities adequate to the needs of these cities in the context of a rapidly decentralizing economy.

I brought with me some statistics with respect to the outmigration of

jobs which may be illuminating. We of the Suburban Action Institute have analyzed the various censuses of business for the 40 largest metropolitan areas in the United States in the last five census years and the result of our analysis is that the SMSA's of the Nation gained 5,150,000 jobs in manufacturing, wholesale trade, retail trade, and selected services.

In that period, central cities gained 782,000, while suburbs gained 4,370,000, or 85 percent of the total increase, in new jobs.

Now, to put the figures that way really masks the reality of what has happened. For example, in the manufacturing sector which provides job opportunities for a large proportion of the minority labor force in the United States, the total number of new jobs in the last five census years in the 40 largest SMSA's was 2,080,000. However, the suburbs, of this 2,080,000, the suburbs gained 2,055,000. The cities actually lost 29,000.

It seems to me when you put together the general sense of what's happening, the outmigration of jobs, and when you look rather carefully at where this—what kinds of jobs are leaving the cities, you see that it is precisely those jobs which low-income, moderate-income and minority workers must have in order to survive, so what's really at stake in the failure to allow minority people and low- and moderate-income people to live throughout metropolitan areas is in a sense a denial of equal employment opportunity to these groups.

MR. POWELL. Mr. Sutton, what are the implications of this trend on minority employment and what are its effects on the central cities from the point of view of job opportunities and the ability to pay for public services?

MR. SUTTON. I wonder if I might first also say, sir, before replying to that, may I state, when you asked me what my position is, that I should also tell you that I am chairman of the advisory board of Suburban Action, which is a nonprofit foundation that deals with problems of the suburbs, race, and poverty, and a variety of other problems, and establishes programs for dealing with the suburbs.

There is an interrelating between the Government-sponsored mechanization of the plantations and the farms of the Southland, the financing of housing, FHA finance of housing in suburbs, and the building of giant highways so that we have had in the last couple of decades certainly more prominently in the last decade, a plethora of people coming from the plantations where they were pushed off because of the Government policy, the Federal Government's policy, and paying farmers not to plant crops, and of course the farmers then mechanized their farms and the people who have agrarian skills then seek to go to the metropolitan areas

They come typically to New York and other metropolitan areas, and when they have come there, they have come with great hope, but they have come with agrarian skills, and then after a while, with some pressure, they have developed new skills. Those new skills have been skills of blue-collar workers and white-collar workers. But by the time they develop these new skills the job opportunities have moved to the sub-

urbs. And then when we find a job opportunity moving to the suburb we find that these people who have come from the Southland, who have come from Puerto Rico, who have come from deprived backgrounds in this modern day setting, are not able to move with the jobs to the suburbs, they are not able, both economically and racially. One, there are racial restrictions upon their moving to the suburbs; and two, there are economic restrictions.

These economic restrictions come in the form of zoning ordinances in the suburbs, and while a factory will move to the suburbs, the people who were in the blue-collar variety—status, rather, and people who were in the white-collar status, cannot move with the jobs.

The result is, this absence of mobility on their part is they remain in the city, they remain unemployed, they now must collect unemployment insurance, they now must get on welfare, they now must also put a great strain on city services and not producing any taxes for the city. I think it is almost un-American, that which is happening—if we might use the term, un-American.

MR. POWELL. Thank you.

Mr. Franklin, is there necessarily a conflict between the concerns of environmentalists and those of persons trying to increase suburban housing opportunities?

MR. FRANKLIN. No. There is an apparent conflict on occasion because the people who are concerned with enhancing ecological values tend to approach problems from what might be called an antidevelopment bias. After all, the ideal solution to preserve the environment is to stop all forms of development, and so they start from that position.

Those who are concerned with access to new opportunities, access to the land reserves of metropolitan areas, what you might call the egalitarian or civil rights concerns, start with, I think, what might be legitimately called a prodevelopment bias. In other words, they are trying to get development, so that occasionally you will find the two camps seem to be in conflict.

Where this is most evident is—take the case of Lackawanna which the President mentioned in his Presidential message. When the black nonprofit group wanted to supply single family housing in a white, expanding part of the city of Lackawanna, the countervailing concerns that were expressed in that case were the sewers would be overloaded, or, we want to preserve open space, so that ecological and environmental concerns sometimes get expressed as the countervailing considerations to opening up housing opportunities.

I think in many instances these are not genuine concerns but I see the convergence of interests between the two camps would be in some reform of land use controls through some form of cluster zoning or what have you, which would preserve open space, cut down the costs of providing sewers, and at the same time, open up opportunities for an entire range of people to live where they might like to.

MR. POWELL. Mr. Franklin, should corporations consider themselves responsible for dealing with the minority housing and employment problems that suburban location create?

MR. FRANKLIN. I think there's a very real question as to whether a corporation that moves out of a central city location to an area that is inaccessible to minority groups, potential minority group employees, is not in effect offering terms and conditions of employment on different bases. On the basis of race. If it moves into an area where it is quite apparent that because of the high costs of transportation and the availability of housing persons of minority groups or lower-income groups who might normally have an opportunity to work are frozen out of that job opportunity by virtue of the location of the plant.

So, to answer your question in brief, yes, I think there is a responsibility.

MR. POWELL. Then what should corporations moving to suburbia do?

MR. FRANKLIN. Well, you may be aware that in one proposed piece of legislation which Senator Ribicoff has introduced, it would be imposed upon Federal contractors the obligation not to move to localities unless some agreement is worked out in that locality or through that locality on a regional basis for the provision of housing in accessible locations on a one-to-one basis with employment in that corporation for employees earning \$10,000 or under. And I think that that approach is a useful one on a voluntary basis as well as for legislation. In other words, to have a corporation say to itself: We will not move to Community X unless they assure us that they are affirmatively working on housing opportunities or will do so in a regional basis.

MR. POWELL. Mr. Gold, Mr. Franklin has referred to the case of Federal contractors. Do corporations have a broader legal responsibility to take actions in cases where they move to suburbia?

MR. GOLD. I would think so, although I completely agree with Mr. Franklin that there is a special responsibility on Federal contractors. The two positions are really joined in the sense that most of the large corporations of the United States are Federal contractors in one way or the other, and so while there are other mechanisms to reach corporate discrimination in employment as a result of migration to restrictive suburbs, I think the method that Mr. Franklin suggested is totally viable. But let me respond to your question in a broader context.

Suburban Action Institute has recently filed with the Equal Employment Opportunity Commission two formal complaints, one against the American Telegraph and Telephone Company and one against the Radio Corporation of America. In both instances, these corporations were moving their—determined to move their corporate headquarters out of New York City. In the case of RCA, to New Canaan, Connecticut, one of the wealthiest towns in America with a prevalence of four-acre zoning and a 2 percent minority population. In the case of AT & T, to a community in New Jersey called Bernards Township, which has 4-acre zoning, 5-acre zoning and which the median price of the new house is upward of \$80,000.

In the case of New Canaan, I might add, the median price house is \$100,000. Corporations have a special responsibility to be cognizant of the employment implications of their decisions to move to communi-

ties that are zoned restrictively. Such decisions often have the effect of discriminating against the minority labor force insofar as that minority labor force cannot compete for the jobs that will be available in the suburbs. I might just add one further sentence on that. If a company has in a central city a minority labor force, 10 percent, in 10 years, given the racial changes in central city, it's quite likely that that minority labor force may rise to 20 or 25 percent of the company's total workforce. If the company moves to a restrictive suburb, it's likely that the 10 percent will decline over the next decade to something less than that so that it does not take much intelligence to foresee the racial and employment consequences of such moves.

MR. POWELL. Mr. Gold, the agreement between the Department of Housing and Urban Development and the General Services Administration calls for affirmative action on the part of Federal agencies moving to suburbia. Could corporations do the same thing?

MR. GOLD. Yes, I think they could. I would think that the President has a special responsibility here. Our researchers have pointed out that the top 500 corporations and their allied 50 largest corporations in banking, insurance, retail trades, utilities, and transportation, altogether 750 corporations, account for roughly 80 percent of all the new jobs that are created each year in the United States. And if the Federal Government were to take the initiative in bringing together the heads of these 750 corporations, and pointing out the urban policy implications of their random site selection procedures which normally result in their development of facilities in restrictively zoned suburbs, it might be possible to voluntarily in line with the President's decisions as to how things should be done in this country, to voluntarily create a general understanding on the part of the corporate leaders in America not to move to such suburbs, and that decision when translated into actual policy may begin to break the back of the problem which we are addressing here today.

MR. POWELL. Mr. Trubek, are State courts effectively dealing with the problem of exclusionary land use controls?

MR. TRUBEK. I do not think so. As I indicated in my earlier statement, the statutes which establish the powers through which local governments use governmental coercion to determine the kinds of land uses that can occur within their jurisdictions, these statutes articulate the most general and vague purposes and then delegate to the local communities effective and total power to establish the policies which will be followed in carrying out these vague purposes.

Now, these policies, as has become apparent throughout these hearings, and in many other places, these policies are determined largely by the local community attempting to further its own interest as it defines it. And these policies lead to many of the practices that have been labeled, quite properly, exclusionary.

Now, the State courts have been asked occasionally and more frequently in the last few years to take a serious look at these practices and these policies. While there have been occasional cases that indicate some willingness in some jurisdictions by State courts to question

and indeed overturn some local policies and practices that have exclusionary effects, nonetheless, by and large throughout the United States, the State courts have done very little and give very little indication that they will make a major attempt to change these policies at the local level.

As I set forth in my statement that was admitted into the record, I think that this is quite understandable, given the statutory structure of our land use control systems, for really the State courts have very little statutory and even clear and explicit constitutional guidance to deal with what is an extremely complex matter which the State legislatures have basically delegated to the local level without further guidelines or review procedures.

MR. POWELL. What about reform at the State legislative level? What types of legislations are being considered and how would you assess the potential effect of this legislation in solving these problems?

MR. TRUBEK. Well, there are basically—there are about three or perhaps four different types of legislation which have been developed, or proposed, to deal with these problems. As I say in my statement, more legislation has been proposed than has been passed, and what legislation has been passed has been up to date of limited effect. It's also quite recent to the extent that there has been any specific legislation on this matter, it has been quite recent.

The major types of legislation that have been discussed are, first, to change the level at which land use control decisions are made. As I said, they are all made, almost exclusively, by and large throughout the United States at the local or municipal level. As you all know, our land use control systems are purely a State system. Therefore, there are 50 different land use control systems, and what I say is my attempt to give you a sense of the average or normal situation. I am sure there are exceptions to everything that I'll say, in one of the 50 States. However, the first type is to change the level at which the decisions are made.

If the reason that local policies are exclusive it's because the policies are set by people who only think of a small jurisdiction and a narrow set of issues, then it would follow that a wider level of decisionmaking might lead to policies that would further the interests of broader groups within the society and take into consideration the kinds of issues that Mr. Sutton has mentioned, which are of concern to the center cities but which the suburban jurisdictions would rather not think about if they can avoid it.

Now, there have been really no effective measures of this type. There are several instances of limited State zoning powers being established and I will not go into detail because they are all set forth in my statement, but basically none of them were established to deal with this type of problem. They are almost exclusively in States where there is very little urbanization, industrialization, and largely these State zoning powers have been established to curb development, not to encourage a certain kind of development in a certain place. So that—while that is a possible solution, no State action can be found relevant to this Commission's concern.

There is the second important area which is the establishment of limited purpose review boards. There is one type. One example of this type now in existence, that is the Massachusetts Appeal Board. The Massachusetts Appeal Board is given the power to override local zoning decisions in those cases where local zoning boards have denied permits for subsidized low- and moderate-income housing, where the town has not met an established quota which the statute creates for all towns in the low- and moderate-income field.

This statute which is about 2 years old has had relatively little impact because of drafting deficiencies and ambiguities and obscurities in the statute, doubts about its basic validity, and other problems which have emerged. It is a statute which I happen to think is a useful model, but because of partly technical deficiencies, and partly because it's relatively new, it has had little effect.

There are other examples that I state in my report of this type of statute which have been proposed, but there has been little interest in the State legislatures in following the Massachusetts model.

This year three or four Massachusetts type bills were introduced and it is doubtful that any of them will be passed. Some have already been rejected and others look like they are dead.

The third type of activity, or measure designed to deal with this problem, is to more narrowly define the purposes of zoning so that the State courts could supervise more carefully exclusionary practices or more positively define the purposes by explicitly requiring that zoning be used to further the goals of equal housing opportunities and to provide explicitly for low- and moderate-income housing.

There are some vague sections in some State statutes that would suggest some interest in this. None of them have had any effect. No legislature has yet passed any serious legislation of this type.

Finally, there is the New York Urban Development Corporation model in which a State housing authority is given power to raise funds or given State funds and then authorized to build low- and moderate-income housing throughout the State despite the existence of local exclusionary policies and practices.

There is only one authority in the United States established that has this total range of powers. In some ways it seems like an ideal solution because you combine the money that's needed with the power that's needed to override local decisions. However, as my testimony indicates, and as the record will show, the New York Urban Development Corporation has not chosen to exercise its so-called zoning override powers in suburban areas. It has found that there is an inherent conflict between its mission to construct a lot of houses quickly and the problems of building housing in many of New York's suburbs. And it has chosen perhaps wisely in the beginning, but at any rate, chosen to build housing almost exclusively in central cities. So that it appears that this two-purpose agency, although in some ways ideal, finds when its two purposes conflict with one another, that the goal of construction to the extent that it can be given priority will be given so over the goal of creating a more open community, as Secretary Romney expressed it.

Those are the major types of legislation. There has been very little movement at the State legislature level. Obviously given the politics of these issues, there is strong opposition to this type of legislation, and given the incredible complexity of these problems and political difficulties, I believe that the State legislatures are not going to act unless clear and explicit policies are set forth at the Federal level which will give guidance to the States in carrying out national goals.

MR. POWELL. Mr. Franklin, what role does the Federal Government have in bringing about the creation of such regional mechanisms to which Mr. Trubek referred?

MR. FRANKLIN. The best way to answer that, I think, is to remind the Commission about something that I think perhaps has been overlooked in the flurry of statements made recently by the President and Secretary Romney.

The President in his Second Annual Housing Goals Report which was issued in April 1970, a year ago, made a very important statement which was not repeated in his message of 3 days ago. In that message to the Congress, he said: "Community opposition to low- and moderate-income housing involves both racial and economic discrimination. Under the Open Housing Act of 1968 it is now illegal to discriminate in the sale or rental of most housing on the basis of race. Strict enforcement of this and similar statutes will help establish an atmosphere in which such discrimination will be the exception rather than the rule."

And here's the key sentence he said: "Nevertheless, the fact remains that it is difficult, if not impossible, in many communities to find sites for low- and moderate-income housing because the occupants will be poor or will be members of a racial minority, or both. The consequences that either no low- or moderate-income housing is built or that it is built only in the inner-city, thus heightening the tendency for racial polarization in our society.'

That's page 42 of that report of April 1970. And on page 10, very specifically he said that he would recommend legislation which would prohibit States and local public bodies from discriminating against housing subsidized by the Federal Government, whether through legislative or administrative action.

Now, those two statements in April 1970 are not repeated in the statement of June 1971. And they were followed up in June of 1970 by a recommendation of the Secretary of Housing and Urban Development for a Federal statute which would, he said, be the first necessary step in ending the ominous trend toward stratification of our society by race and by income. So that I think we have had introduced now 3 days ago a dichotomy, a distinction between race and income in the Federal approach to this, and I wanted to get on the record the fact that that is a distinction which was not being used a year ago in 1970.

Now, in addition, I think the question of how you get at this problem does involve some kind of regionalization or metropolitanization of the housing subsidy programs, and I think the Commission ought to be aware of the fact that we have a dual system of transmitting housing subsidies to people who are in need of them at the present time. I'm not

speaking of a racially dual system, I'm speaking of an economically dual system. That is to say, if you are not poor, if you are of moderate income, you get your housing subsidies through an essentially private system, the private lenders, the private developers, the FHA system is essentially a private system which transmits these subsidies to you.

If you are poor, however, and in need of housing assistance, you get your aid only through what might be called a public mechanism where there is local public approval, not only of the individual project but of whether you ought to have the subsidy at all. So if you have suburban areas, for example, who have not created local housing authorities, which is the primary mechanism through which subsidies for the poor are transmitted, or have not approved the availability of rent supplements, which is the other way in which subsidies for the poor are transmitted through what might be called the private mechanisms. So in a sense you have local jurisdictions that freeze out the availability of housing subsidies for the poor simply through nonaction, whereas the moderate-income family gets its subsidies through private mechanisms that involve the kind of land use controls that Professor Trubek has described, but which do not involve local public approval of the fact of being subsidized.

Now, I think that this dual kind of system has to be eliminated and I think it is fair to say that you would have to have legislation to that end. But until it is eliminated there are ways in which the Federal resources now available might be transmitted in a way that encourages the kind of thing that we have heard about in Dayton, Ohio, the Miami Valley Regional planning process.

I think the Federal Government ought to put much of its resources into encouraging the development of this process and eventually get to the point where it has what might be called an ear-marking, that is, projects that come out of that kind of regional mechanism will have first crack at the subsidies, and I think that is consistent with what the Secretary said to the Commission yesterday and in his press conference, so that if he does develop a priority allocation mechanism that favors the project coming out of this metropolitan planning process, we will be at least one step toward where we ought to be in providing housing on the basis without respect to—on a nondiscriminatory basis with respect to income and race.

Now, let me conclude that all too brief statement by saying that the question of whether local land use controls have a purpose of discriminating is quite a separate question from what their effect is, and I think this Commission and everybody else ought to say that the important fact we are dealing with is what are the effects of what happens and not what is the motive. I find a certain ambivalence in the President's statement on this which you might for the record like to reread and perhaps your Counsel would like to look at, and that is on page 6 of the President's statement, he said: "In such cases where changes in land use regulations are made for what turns out to be a racially discriminatory purpose," and he uses the word, "purpose"—"the Attorney General in appropriate circumstances will also bring legal proceedings."

Now, that's a very limited statement. However, on page 10, paragraph 8, in a very fine statement, he says: "We will not countenance any use of economic measures as a subterfuge for racial discrimination," and then goes on to say: "When such an action is called into question we will study its effect."

Now, there is ambiguity in this statement as to whether the policy of the Administration, insofar as its intervention of legal proceedings will be based on, purpose or effect. And I think that we all ought to be agreed that we are talking about effects and that since Federal Civil Rights Laws apply to all subsidized housing, the discriminatory inclusion of such housing always has a discriminatory impact. I think we then therefore ought not to be accepting any distinction between economic and racial discrimination, and I underscore what Mayor Stokes said on that point.

MR. POWELL. Thank you. One concluding question.

Mr. Sutton, is there a conflict between the goal of increased housing opportunities for blacks in suburbia and the increasing potential black power in our central cities?

MR. SUTTON. I'm glad you asked a question of me, Mr. Counsel, because I was beginning to feel in my involvement in this panel as though I was an inner-city resident seeking to get into the suburbs.

There is, I see, sir, no conflict between political power in the cities and the seeking of political power in the suburbs. It is a fact of life that there is bigotry in America and it is a fact of life that black people and minority groups do not accede to political power in the cities until such time as they are either in the majority or near majority, so that we do have an increasing number of people as we grow near a majority, or become a majority, an increasing number of people who are gaining political power as mayors, borough presidents, other positions in this country.

We have, however, a desire of many people, black people, just as white people, seek to live wherever their job opportunities are, to live—to seek to live where educational opportunities are, so they are seeking to move into the suburbs. Some have said that this is going to diffuse the power, this is going to reduce the power of black people to gain political power in the cities if we move to the suburbs.

I am of the firm conviction, out of experience, that black people must seek power in the suburbs as well. They must seek, even though there is bigotry, and they will not become elected officials in many instances, they must seek to influence the conduct of elected officials in the suburbs for if we are ever to change our zoning, if we are ever to develop what I think is the ultimate, and that is regional planning, regional government, for the purpose of planning and the purpose of resources, we must be able to exercise some influence in the suburbs.

So I think we must continue to gain political power, black people, minorities, must continue to gain political power, and they must see no conflict between political power in the cities and the outmigration from the cities to the suburbs where they will become a part of the political structure where they must work to influence the turn of events there. I

see no conflict at all, sir.

MR. POWELL. Thank you very much, Mr. Sutton. No further questions.

VICE CHAIRMAN HORN. Thank you, Mr. Powell. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Sutton, I would like to pursue the point with respect to political power in terms of the large numbers of poor people, including minority poor, that appear now not to be having much power. This whole panel has described a situation in which the poor seem to be like pawns in a chess game. The State legislatures have not responded, the local municipalities have not responded.

I wonder if you could say in what ways that even the exercise of the ballot would cause a difference in the situations that exist today?

MR. SUTTON. Let me describe for you, if I might be subjective and conventional, a condition that exists in the city of New York, for example.

We have just entered a session of our State legislature. We normally meet for 3 months out of the year. That State legislature mandates a budget for the city of New York. It mandates certain programs for the city of New York. New York is increasingly becoming a city in which the middle-income people and upper middle-income people have left the city for the suburbs, they left by those ribbons on concrete, those highways structured by the Federal Government. They left to get the FHA housing that is out there. And now we are left with a number of poor people who have come to the city because again, of a Federal effort, as I mentioned before, that is, subsidizing the farmers not to grow crops and mechanization of farms so that people come with great hope to the city.

Now, they are there. They are in fact gaining political power, but they are still controlled, and most legislatures in this country are controlled by suburban and rural legislators.

In New York City in this last session of the legislature, the anger became so great on the part of the legislators from the city of New York that we are now talking of secession, and there's been the attitude in the past when people talk of New York seceding from New York State a dismissal of it as a joke. It is getting serious attention now and the reason it's getting serious attention is because New York City legislators, though only three short of being equal to other legislators from outside New York City, because they are poor and because they deal with the problems of the poor have exercised very little influence and very little flows to the city of New York.

The result is that we are now finding an absence of real clout, and that is one of the reasons that I'm suggesting that as black people, as Indians, as Chicanos, as Puerto Ricans move, they ought to seek to move in the suburbs, and there influence suburban legislators, for I believe only by doing this are we going to have an opportunity to have an evenness, an even-handed administration of the various programs of State governments.

I think that what has happened is a form of cruelty. Minority groups

are acceding to power in various parts, only to find bankrupt cities. This cannot endure.

COMMISSIONER FREEMAN. Let's take a typical community where perhaps you have a population of 25,000, maybe 6,000 homes with the maximum FHA loan, insured loan, \$33,000. They probably have a mortgage of a \$40,000 house. With their mortgages and their suburban communities they vote to exclude low-income families. That is, a vote of the community.

I would like to ask you and any of you, in particular Mr. Trubek, if there are ways in which this, the equal protection clause of the 14th amendment, the prohibition against the State in this regard, if this could be applicable, and particularly, is it important now in the light of the policy that there will be no insistence that a community accept the federally assisted programs for low-income families?

MR. SUTTON. My own disturbance is the same Supreme Court that will ultimately decide this issue has already reached a decision that I find very depressing to people who live in inner-cities, very depressing to minority groups, and of course, when you talk about pursuing action under the 14th amendment, we're going to wind up with the same Supreme Court deciding the matter. I'm not very hopeful.

MR. FRANKLIN. May I add to that, a comment?

I think Mr. Sutton is referring to the Valtierra case which we are all familiar with, and the National Urban Coalition filed an amicus brief in that case, along with a number of other organizations, and we have since prepared an analysis of that opinion, to suggest that it is far more limited than has appeared at first blush, and if the Commission is interested I could submit that memorandum for the record. It does indicate that there is still a great possibility that the equal protection clause, when appropriately invoked in a case, can protect the rights of the poor, even notwithstanding the referendum requirements.

I think that case went off on a very limited set of circumstances in California and we ought not to read it more broadly than it really is. So if you are interested, I have that memorandum.

VICE CHAIRMAN HORN. We'd be glad to have that memorandum for the record, and without object it will be inserted at this point in the record.

(Whereupon, the document referred was marked Exhibit No. 33 and received in evidence.)

COMMISSIONER FREEMAN. Mr. Trubek?

MR. TRUBEK. Yes, I think that your question is a very important because as we— if we start from the premise that the local communities of the type you describe are presently subject to no constraint of any substantial importance in limiting those decisions, and therefore don't have to take into account national goals, regional goals, metropolitan goals, State goals, and we look around and see who might be reminding them in one way or another of their obligations and removing their power when they fail to follow their obligations, one immediately looks, it seems to me, to the Federal level.

And I think that in the present context, given the Administration's position and so on, the Federal courts take on a greater importance than they may have taken on at other times and other places. So far it's a fact that there have been relatively limited judicial responses into the broader reaches of the 14th amendment, the kinds of cases that have been dealt with have been largely cases where one can find purpose, but discriminatory purpose will occur in very few cases and you still can have profoundly discriminatory effects as all the panelists have said. Therefore, it does seem to me that a more sophisticated application of the 14th amendment, understanding the importance of effects, and not focusing narrowly on purposes, will be an essential part of any organized and coherent national approach toward these problems. And I think the Federal courts may well, Valtierra to the contrary notwithstanding, because I agree with Mr. Franklin's characterization, may well respond to efforts to expand and make more precise the concept of effect under the 14th amendment.

COMMISSIONER FREEMAN. This Commission, as you know, has long been concerned with the consequences of Federal policy and not with the narrow determination of whether an act was intended to be discriminatory. I thank you for your comments.

MR. TRUBEK. Let me make one point, which is that this is one of the major problems. I know Father Hesburgh said yesterday this is one of the most complex areas, and it's partly because there is no— frequently it is sort of a combination of decisions, none of which were intended to have discriminatory effects, which somehow has this effect, and therefore it's very hard to find a clear morally reprehensible or clear-cut discriminatory act to put your hands on. Everything is very murky, everything is very obscure, and yet if you see it in its overall pattern, it is in some ways more discriminatory than things that were consciously set forth to create racial segregation, for example. And that is, it seems to me, the great dilemma in this area, and why we need a whole new perspective in civil rights to get at this range of problems, because it is indeed by far the most complex kind of systemic problem rather than a sort of linear discriminatory purposive decision that we have to get at.

COMMISSIONER FREEMAN. Of course, as you know, the black experience in this country has been such that we have lived it, we have known that it was there, but getting somebody to believe it, that has been a problem.

MR. SUTTON. Commissioner, the comment made by Mr. Trubek was to the effect that he is not too sure there has been a conscious discrimination, and I don't have as much hope as they do with the Supreme Court, and I don't view that this was a rather limited decision made by the Supreme Court. But I do think there is a clear and conscious discrimination when we talk about your example of the FHA. The FHA, there was a conscious discrimination, because the banks cooperated and the FHA cooperated in discriminating against blacks.

I would just not like to eliminate that, that was a conscious discrimination.

MR. TRUBEK. I think my point was, when you eliminated all the conscious discrimination you would still have systemic effects that would lead to discriminatory effects, so we can't stop with that, or solely look for that. We have to look for how all of a series of things, some of which may have had discriminatory purposes at one time that have been forgotten. Others which didn't have discriminatory purposes when they were enacted, but which are now comfortable policies behind which discriminatory purposes can in effect reside without ever manifesting themselves in any explicit statement of: "We're going to pass this zoning law so that we can discriminate against X, Y, Z," so on. You don't have to do that. You have nice, comfortable, apparently neutral policies. And then everything sort of moves together, all of the different decisions of different jurisdictions or inactions of different jurisdictions somehow cumulate in the net pattern.

So that if we look only for the bad man or the bad purpose, we'll miss what is really important, which is a complex metropolitan regional system of government that allows certain patterns to occur without even anyone sitting down and saying: "We want this pattern."

There are many people who find it comfortable when the pattern emerges and are not going to move to change it, but that doesn't mean you can find that they have manifested a specific purpose to create the system.

COMMISSIONER FREEMAN. This has been defined as institutional racism.

MR. TRUBEK. Call it what you will.

MR. SUTTON. Mr. Trubek said this, this is very frustrating to me, it's frustrating to minority group people, when he suggests that what we have is a pattern of not conscious discrimination, but a complex of things. This is what they have been saying for years and Mr. Trubek is not the sort of person who would say this, but for years they have said: "Well, this is not a conscious thing, and because it is not a conscious thing we can't deal with it in the courts."

I am not prepared to buy this. I say that it is a conscious thing, and it is not just a complex of circumstances that we cannot prove if we are given the opportunity. We can prove the consciousness of it.

VICE CHAIRMAN HORN. Professor Trubek, I think you have made a very good point. Since you mentioned the court, it reminds me of Potter Stewart's comment in a pornography case that while he couldn't define pornography he knew it when he saw it. I merely hope that when the court gets future cases of discrimination they will know the consequences when they see it. Commissioner Mitchell?

COMMISSIONER MITCHELL. I have no questions.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Sutton, as a professor of government I was interested in your statement, or implication, that one man-one vote doesn't work in New York; is that correct?

MR. SUTTON. One man-one vote does work in New York except the votes are outside of New York City.

COMMISSIONER RANKIN. It does work then for the entire city and

the State both; is that correct?

MR. SUTTON. Well, what actually happens is, New York City has been set apart by the State of New York, and we— most of the legislators, as a matter of fact, a majority of three, are suburban or rural legislators who have certain fixed concepts of the vile city. The result is that we get back— I should tell you that disproportionate burdens are placed upon the city of New York and disproportionate income flows to the State of New York. The result is that, for example, some \$200 more is given for the education of a youngster who lives outside— the college education of a youngster who lives outside of New York than inside the city of New York, and there are many discriminations inflicted upon the city of New York though we do have one man-one vote.

COMMISSIONER RANKIN. Thank you. I have another question to ask you with respect to some of your testimony. I live in Durham, North Carolina. We have one municipality. All the area around is in a small county where over half the people work inside the city. We are trying to unify the government into one unit of government. The opposition comes from the whites outside and from the blacks inside. The blacks inside say it will dilute our vote and so they vote against it.

What I thought you said a few minutes ago, the thought was desirable. Now, how can we make them see that it would be desirable? Maybe I could bring you down to Durham and you could help us out.

MR. SUTTON. I'm not too sure I belong in Durham. Let the people of Durham solve their own problems. I have a lot of problems in New York, Mr. Commissioner. Actually, mine is rather a personal philosophy, looking at it from the larger point of view, the overview, that I think that we are going to gain political power, blacks and minorities are going to, because whites are abandoning the city, so we are going to — so this is just going to fall into our hands. But we must not just remain there.

For example, suppose we control New York City and all of the legislators who were part of the State legislature were black or Puerto Rican or Mexican Americans, or Indian, and they went into the State legislature, they would be in no better position then to influence legislation than the combination of whites, blacks, and Puerto Ricans who are there now. So what we have got to do is to penetrate the enemy, if I might term the suburban people the enemy of the city of New York, we have got to get out there and have got to influence them for oftentimes we can, though not being the majority, we can be the balance of power there, and we can select the kind of legislator who will of course vote in the manner we wish.

Incidentally, may I say this, sir? Speaking of the enlarging of the political unit, I think it is inevitable that within the next decade we are going to see metropolitan government in many areas. Right now, for example, in New York City there are many complaints and many people ran to the suburbs. In the suburbs of New York City the most prominent suburb is Nassau County. Nassau County 15 years ago was a quiet little countryside. There are more than a million people in Nassau County. Nassau County now has all of the problems that New York

City has. So Nassau County has a suburb, and that's Suffolk County. So Suffolk County is now coming into 500,000 people. So we are going to realize sooner or later that we have a common problem and we're going to be able to get those legislators to vote with us to develop a metropolitan area because unless we have a metropolitan area government we are not going to be able to deal with our problems of electrical resources, very natural resources, with the collection of taxes.

We need for planning purposes a metropolitan government or regional government, and for delivery of services we need local government. And I think this is inevitable.

VICE CHAIRMAN HORN. Let me follow up on that, Mr. Sutton.

Last night Commissioner Mitchell and I were discussing some of these questions. He's a private flier and he made the point that when he flies over metropolitan areas you really can't tell where these suburbs and cities—that are by the hundreds in many of these metropolitan areas begin and end. Now, pursuing it a little further, besides the sort of metropolitan regional government planning and cooperation, would you care to speculate on the feasibility of perhaps devising some population density formula whereby you would include the counties of northern New Jersey, Westchester County, Nassau, maybe Suffolk, county in Connecticut or so, with the five boroughs of New York, and create a new State in the Union which would entitle you to two Senators in the United States Senate, which would free you from the legislatures of Connecticut, New Jersey, and New York, and so you would have your own problems to solve rather than have the upstate, downstate, and traditional antagonisms?

Do you see this as feasible, either in terms of asking the legislatures to yield to you a new State as I think they could do under the Constitution? I'd like to have Counsel write a memorandum on this, by the way. Or on an interstate compact basis approved by Congress.

MR. SUTTON. First I want to say to Mr. Mitchell, I have much in common. As an old pilot, I now don't fly anymore individually, but I do see the cities merging with the countryside. But I do want to say that I am a co-chairman, Mr. Commissioner, Mr. Vice Chairman, of an effort that will produce a petition that will have on the ballot in the city of New York in the November election the proposal for making New York City a City-State. Were we to be a City-State, sir, we would rank over 43, we would have a greater population than all but 43—I'm sorry, we will be the 43rd State of the Union, and were we a City-State also, sir, we would have greater influence. We'd like those two Senators to come from New York City. We don't see any difference in our problems were we to include New Jersey than our problem now with Suffolk County and the rest of them.

Unfortunately, this is where the people have gone to from New York City. We would like to have New York City as a City-State, and we are not joking about it anymore. We see it as a possibility.

Now, of course, you know under the Constitution of the United States it is required that Congress approve this. It is also required that the State legislature approve this. And the way the State legislature of

New York has been treating us, and since they believe that we create all of the problems, they forget that we produce most of the money, but since they feel that we are so bad, maybe they will get rid of us by just saying, "Good riddance". We have high hopes.

VICE CHAIRMAN HORN. I am interested that you want your Senators from New York City since they seem to be coming from Massachusetts and Connecticut in recent years.

Let me just ask one final question before I yield to Mr. Glickstein.

It was raised by Mr. Franklin, pointing to the President's housing message in June of '70 that on pages 10 and 42, certain recommendations had been made about Federal action to override perhaps State and local public bodies, and that really those legislative recommendations have not been pursued.

I wonder, Professor Trubek, since you are a legal scholar in this area, what do you feel the pro's and con's are of Federal enactment which would have the possibility of overriding local zoning ordinances? What are the constitutional problems?

MR. TRUBEK. I don't think there are any constitutional— I am not a constitutional law scholar specifically, and I'm—

VICE CHAIRMAN HORN. You are the first lawyer I have ever heard admit that he wasn't. We have an honest man in our midst.

MR. TRUBEK. But I don't think there would be the remotest constitutional problem with the kind of legislation that Secretary Romney originally introduced and then was withdrawn, because as I remember that legislation, it merely said that no town, no local government, could bar a federally assisted project because it was a federally assisted project. It said really very little more than that, which would get at cases which do occur. I mean, there are very important cases where you could easily make the case that the town would have allowed a somewhat similar project but because it was federally subsidized and therefore it brought with it a sort of aura of poor people and black people and so on, the town sort of either changed its zoning or refused to give a variance which it might have given in another case.

Now, it would certainly take care of that. It seems to me there is no constitutional problems. It seems to me such legislation would be important because there is this notion that somehow in the Administration's position that the private sector and the local communities are going to work this problem out. But if you look at the lawsuits that come up; some win, some lose, and I don't think there is enough legislation, both at the State and Federal level, to make these lawsuits as effective as they could be. But if you look at them, it's the private sector fighting the local government, trying to implement Federal policies with no help from the Federal Government, by which I mean, builder X wants to build a federally subsidized project or project in which the recipients will receive Federal assistance, say a 235 project, and there have been a few cases now coming up on this.

The town which has allowed multiple family dwellings in other parts of the town suddenly decides that it really is inappropriate, rezones or refuses a variance. All right. Here's a private builder who wants to

build housing to make money, but in connection with a Federal program, finding that the local community refuses him and getting then very little assistance from the Federal Government in carrying forth what appeared to be a Federal program. So that you have both the free market, as it were, and the Federal programs is coming in conflict with local decisions and the local powers coercing the builder against his will to stay out, if you want to put it that way. This whole business of coercion versus—you have got to remember that land use is one of the most controlled parts of our economy, and so when we think about Government control, we have to recognize that we have a highly controlled industry, as it were, but controlled by tens of thousands of little towns rather than by any larger government. I think legislation would be helpful and constitutional.

VICE CHAIRMAN HORN. Thank you.

Mr. Glickstein just handed me a memorandum prepared by our Office of General Counsel that at this point without objection, I will have inserted in the record. Congressional Power to Prohibit Exclusion of Low- and Moderate-Income Housing, which deals with the constitutional aspects of this.

(Whereupon, the document referred to was marked Exhibit No. 34 and received in evidence.)

Mr. Glickstein?

MR. FRANKLIN. Could I add one word, very briefly?

VICE CHAIRMAN HORN. Yes.

MR. FRANKLIN. It seems to me that if we are going to use the housing industry as a focal point for economic conversion to peacetime uses and there's a lot of talk of this, that the problem that we are confronting and the Commission is concerned about has got very serious implications for our ability to organize ourselves, to create the housing industry into one of the driving engines of our economy, because it depends on the interests of entrepreneurs as to whether we will really get this job done. And if Secretary Romney wants Operation Break-through to succeed, he has got to convince the capitalized entrepreneurs that there will be sites available on a predictable and assured basis and that can only be done if the Federal Government gets behind this process and supports it.

MR. SUTTON. Mr. Chairman, before we conclude, may I just make an observation that I know each member of the Commission and its Counsel has noted before? However, I think that housing more than any other area you deal with goes to the guts of discrimination in America. And it goes to also the sense of helplessness of people who live in America who are minority group people, for I think that housing more than any other element, poor housing reminds the individual every day of the sense of depth of his depression. But also, segregated housing produces segregated schools. It produces the kind of ghetto that does not give the individual who lives there access to job opportunities, and without job opportunities there is the unemployment, and with the unemployment comes the crime.

The thing is so intertwined that I think your stress on housing, your

stress on the opportunity to break out of the ghetto and not gild the ghetto—we hear more and more talk about, let's go into the ghetto and gild it, let's refurbish the ghetto. This is not the solution to the problem. There must be certainly some refurbishing of the ghetto, but there must be outward movement from the ghetto as well.

I should like to comment also with regard to a statement made here with regard to New York State Urban Development Corporation, which is a New York State chartered organization that has the power to both raise funds and construct housing. It has an unusual power to override zoning as was suggested by Mr. Trubek. This power, however, is not just failed—it's not unutilized solely because it is more speedy to build in the city, it is not utilized because of a political problem. The voters must vote money, they must vote the bonds to build the houses, so those who run the Urban Development Corporation are fearful of overriding zoning in the suburbs because if they do override zoning in the suburbs they will not get additional funds. I just want to make that comment.

VICE CHAIRMAN HORN. Thank you. Mr. Glickstein?

MR. GLICKSTEIN. I just have one question for Professor Trubek.

You mentioned various State laws that seek to deal with the zoning problems. Have any efforts been made by any of the legal groups like the American Law Institute or the Bar Association or the group that publishes things like the uniform commercial code to come up with a model statute that could be recommended to all State legislatures that would deal with this problem? Has the bar been involved in this at all?

MR. TRUBEK. There is no organized effort that I know of to create a model statute narrowly aimed at this set of questions. In the legal profession, the National Association of Home Builders has been working on developing a model statute of their own and they—it's a statute modeled basically on the Massachusetts as—and taking parts of the Connecticut statute that I worked on.

The American Law Institute has a model land development code which would be sort of a comprehensive attempt to restructure our land development, land use controls, land development system, and proposes some things which would affect this. That has gone through several drafts now, many of which I think were inadequately—inadequately took into account this range of issues. Currently a new draft is being worked on, and emerged, or is about to emerge.* I understand that the reporters are more aware of this problem and are trying to take it into account. When we see the draft we will know whether they have done so.

Those are the only two things I know of. And the ALI thing is not precisely aimed at this problem but at the general reformation of our land development system.

MR. FRANKLIN. Mr. Glickstein, the President has introduced his National Land Use Policy Act, which has a provision in it, incidentally, which is pertinent to our discussion, and that is it would encourage

*Tentative Draft No. 3 was issued on April 22, 1971. Letter from David M. Trubek to David H. Hunter, June 22, 1971.

States to assume some kind of control over what the act refers to as development of regional benefit. And they have been very—they have muted the civil rights connotation of that particular provision, but they are there, nonetheless, and I think the Commission might be interested in monitoring that particular legislation.

MR. GLICKSTEIN. Thank you.

VICE CHAIRMAN HORN. Without objection, I would like a copy of the act just referred to inserted in the record at this point.

(Whereupon, the document referred to was marked Exhibit No. 35 and received in evidence.)

Thank you very much, gentlemen, we appreciate the four of you coming down here and sharing your insights and thoughts with us on this occasion. Thank you.

MR. SUTTON. Mr. Chairman, may I just say before you depart that I should like very much to submit a statement which would be cumulative of that which I have said here today, but I would like to also comment that were we to take in our southern cities such as Atlanta; Houston, Texas; San Antonio, Texas; and some other southern cities, and put an overlaid map over them, we would find if we talk about black and white and grey we would find more grey areas in the South and we would find more black areas and white areas in the North. We have more discrimination in housing in the North than there is in the South, and I think that one of the things that happens in the city of New York, and such northern cities as the city of New York, in our ghettos is, whatever we feel about the ugliness of the ghetto, it is made all the more ugly by the lily-white nature of the suburbs that surround us that say: "Stay out."

VICE CHAIRMAN HORN. Thank you very much again, gentlemen.

Mr. Johnson, the Administrator of Veterans Affairs, please come forward.

(Whereupon, Mr. Donald E. Johnson was sworn by the Chairman and testified as follows:)

**TESTIMONY OF MR. DONALD E. JOHNSON,
ADMINISTRATOR, VETERANS ADMINISTRATION.**

CHAIRMAN HESBURGH. Mr. Johnson, we would like to acknowledge the fact that from 1958 to 1960 you were a member of our State Advisory Committee in Iowa and we appreciate the help you gave this Commission, on that occasion, over those years. Could we swear your associates if they are going to talk?

MR. JOHNSON. Yes, Mr. Chairman, and might I introduce them to you?

CHAIRMAN HESBURGH. I'll swear them first and we'll put it as part of the record.

(Whereupon, Mr. John J. Corcoran, Judge William Parker, and Mr. John Dervan were sworn by the Chairman and testified as follows:)

**TESTIMONY OF MR. JOHN J. CORCORAN, GENERAL COUNSEL,
VETERANS ADMINISTRATION; JUDGE WILLIAM PARKER, DIRECTOR,
CONTRACT COMPLIANCE SERVICE, VETERANS ADMINISTRATION;
AND MR. JOHN DERVAN, DIRECTOR, LOAN GUARANTY DIVISION,
DEPARTMENT OF VETERANS BENEFITS**

CHAIRMAN HESBURGH. Mr. Johnson, one other thing, We have your statement which we are going to put in the record as is. If you will summarize it, it will give a little more time for questions and I think might yield more fruit. So we would appreciate it if you would summarize it.

(Whereupon, the document referred to was marked Exhibit No. 36 and received in evidence.)

MR. JOHNSON. Thank you, Mr. Chairman.

CHAIRMAN HESBURGH. I hope you will identify—Mr. Powell will take care of that.

MR. JOHNSON. Thank you, Mr. Chairman, and Commissioners. First of all, the gentlemen accompanying me at the table: to my immediate right is John J. Corcoran, General Counsel of the Veterans Administration. To his right is Judge William Parker, Director of the Contract Compliance Service of the Veterans Administration. To my left is Mr. John Dervan, the Director of the Loan Guaranty Service in the Department of Veterans Benefits, which handles all matters of housing.

The VA of course is pleased to be afforded this opportunity to tell the Commission of the actions that we have taken to obtain nondiscrimination with regard to housing under the GI Bill and GI financial assistance.

While we represent a relatively small part of the whole housing industry the cumulative totals of the actions which we have taken are significant. Since the beginning of the GI Bill, back in 1944, there have been home loans that total nearly eight million different loans.

Beginning in 1962, after Executive Order 11063, the VA took the initiative in several fair housing measures. For example, there were agreements negotiated for the purpose of establishing cooperative and coordinated programs with State and local agencies. At that time understandings were signed with 10 States and seven cities that had fair housing laws on the books.

In 1963 there were detailed guidelines issued aimed at coping with conditions caused by force or threats of force against minority purchasers of VA houses located in all-white neighborhoods. Certain other things happened during this period of time to carry forward the policy of the Federal Government with respect to fair housing.

Following the outbreak of civil disorders in 1968, the VA issued special instructions to assure that ghetto areas were not arbitrarily excluded for eligibility for loan guarantees or rejected for appraisal processing.

Following the Civil Rights Act of 1968, the VA ushered in a new set of fair housing measures aimed at providing additional impetus to the Nation's express commitment to equal housing opportunities for all. We have added to our staff of the Loan Guaranty Service two experienced personnel whose responsibilities are to manifest the Agency's commitment to fair housing for veterans and in the years following substantial gains have been made.

Because of the volume of properties which we make or underwrite

loans on, we do of course repossess those on occasion which are not paid for and with respect to these acquired properties, and that is the term that we use, the procedure was introduced, and I might add not without arousing some criticism and complaints, that called for the collection of hard ethnic and racial data about prospective purchasers, and later we extended this to cover the race of the broker as well.

The problem of racial restrictive covenants was finally disposed of by amendments to the VA regulations which had the effect of rendering restrictive covenants meaningless in VA transactions.

Minorities were afforded a wider chance to participate in the purchase of VA properties by a change in the procedure that extended the time for submitting offers from 3 to 5 days with a guaranteed weekend included in the interval. Also, for the same purpose, the VA embarked on a program of paid advertising in the ethnic press in all cities with large minority populations which included under the official nondiscrimination legend listings of acquired houses currently on the market.

In Spanish publications, for example, the ads were run in that language.

The most sophisticated step in the racial data program was taken in 1969, requiring the assignment of a property location code on all property acquisitions that described the racial character of the neighborhood where the property is located.

The most recent step taken in the racial data program will for the first time provide information about the race or ethnic origin of veterans making applications for home loans guarantees and direct home loans. This has been accomplished through a revision of the application form.

The VA does believe that to a measurable extent, the success of an equal opportunity program hinges on the involvement of minorities themselves in the program's operation. For this reason, as well as because it facilitates administration, the Loan Guaranty Service has embarked on a deliberate program to attract more minority persons as sales brokers, property management brokers, fee appraisers and repair and maintenance contractors.

I think probably the major effort which has been made in recent months is that for sometime the VA has recognized the desirability of requiring a certification of future nondiscrimination from veterans or other individuals for GI home financing and assistance, but up until recently the VA had entertained serious doubt as to our authority to take this step. Upon my direction, the General Counsel has just concluded a restudy in depth of the possibility, and based upon the advice of General Counsel, I am now prepared to impose a requirement for a certification against discrimination on the basis of race, color, creed, or national origin in the future sale or rental of properties as a prerequisite to obtaining a VA direct or guaranteed loan.

An identical certification will also be required of those seeking to purchase VA acquired properties. Regulations to this end are now in preparation and I contemplate inauguration of this procedure in about 60 days.

In the long view this should have some affirmative effect in the elimination of housing discrimination by individual sellers or renters, both urban and suburban.

We recognize, of course, that the program which is in the written statement and the steps that we have taken do not provide a total solution to the problems of discrimination in housing that face minority veterans. Our jurisdiction by virtue of its being confined to veterans places a very special limit on our impact on the lending industry and the real estate business.

The housing industry, after all, is a single entity. The problems encountered by its customers, be they availability of loans, housing shortages, construction, or what have you, are the same whether the buyer or borrower be veteran or nonveteran. I believe, however, that our equal housing opportunity activities have made important strides towards the elimination of discrimination in the sale or rental of housing for veterans.

Mr. Chairman, we will take your questions.

VICE CHAIRMAN HORN. Thank you very much, Mr. Johnson. We will carry your whole statement as presented in the record of this hearing. Mr. Powell?

MR. POWELL. We have the names and addresses of the individuals.

Mr. Johnson, how many applications for loan guarantees do you process annually?

MR. JOHNSON. Mr. Dervan has the exact figures here, sir.

MR. DERVAN. Applications for loan guarantees the past 3 years, 1968, 248,000; 1969, 233,000; last year when money was tight they dropped to 194,000.

MR. POWELL. Of these applications how many loans does VA guarantee annually?

MR. DERVAN. The guaranteed loan total, sir, in the past 3 years: 1968, 211,000, for a total of \$3.7 billion; 1969, 213,900 for a total of \$4 billion; and in 1970, 167,500 for a total of about \$3.4 billion.

MR. POWELL. Of this number how many are made to purchase homes in the suburbs, approximately? Do you have a percentage?

MR. DERVAN. Well, we don't have any percentage data on that, Mr. Powell, but I would say that in line with housing generally in the United States, the bulk is probably in the suburban areas.

MR. POWELL. How many loans were made to purchase homes in the central cities?

MR. DERVAN. I would say a relatively small proportion of the total.

MR. POWELL. You would say that most of the new homes that you are guaranteeing are located in suburbia and most of the existing housing—

MR. DERVAN. I would say that as a general statement, that is probably correct.

MR. POWELL. How much money was loaned by private lenders last year with the VA acting as the guarantor of the loans?

MR. DERVAN. These are the figures which I gave a moment ago, sir. In 1970, the 167,500 loans which we guaranteed represented an initial advance of funds of about \$3.4 billion.

MR. POWELL. Mr. Johnson, it might be helpful for you to briefly describe how the Veterans Administration assists veterans in the purchase of homes.

MR. JOHNSON. This begins, today, while the man is still in Service, in a project that we call Outreach, in which we have qualified personnel who explain all VA benefits and programs in the field. We have men in Vietnam, for example; also we have them at major military separation points, the military hospitals, as well as operating through a series of regional offices and contact offices throughout the United States which are either accessible in person or in large measure by telephone involving WATS in which the inquiries can be made.

We make great use of the media to explain to the returning veteran those programs in which he might have an interest, of which housing is only one. Then we begin, as we make the personal contact, providing him either with written or oral information or both, as to some of the things to look for as they prepare to enter into contracts for the purchase of homes, their contacts with the lending institutions, etcetera. We are now working on a test pilot basis for those veterans which under our law are characterized as disadvantaged, to give them full orientation as they try to move out to purchase a home of their own. We are doing this in the District, in Los Angeles, and in Chicago on a pilot project so that they might be as fully oriented as possible, not only to the advantages of homeownership but to some of the dangers that are involved as they go out to look for housing and for financing.

MR. POWELL. You mentioned that you are now beginning to collect racial data. The President in his message mentioned the problem, the national problem of racial concentration on central cities and congestion. Do you suppose you could use these racial data in a way that could alleviate that problem?

MR. JOHNSON. It might be possible. The racial data to which I refer was primarily on acquired properties and the role that we have played to get the minority veteran aware that housing was available under some very favorable conditions for purchase. For example, in the first 3 months of this calendar year, on VA owned homes, we had 3,800 total offers accepted and the racial percentages of those offers accepted were 60 percent white, 6 percent Spanish American, 30 percent Negro, 1 percent Oriental. The remaining 3 percent were not identified.

MR. POWELL. That's very interesting, Mr. Johnson, but I would suggest that if we knew more about those houses, one, where were they located? Two, were they new? What percentages of the houses bought, for example, by the some odd 40 percent of blacks were located in the central cities? What percentage of those houses were relatively old as compared with the new houses located in the suburbs? Couldn't the data be used to identify this problem?

Another thing, for example, in advertising the property, could you not in the ethnic press, could you not advertise houses located in subur-

bia, in addition to those located in the central cities?

MR. DERVAN. The point you make is a very good one, sir. In meeting with representatives of black and other minority groups, we have gone over this data with them and they have said: "Fine, that's good, that's very interesting, but really aren't you really moving black citizens into houses in black areas? You may be improving their housing but is their location changing?" And, quite frankly, we were not able to answer the question adequately because of the lack of intelligence as to area. And this is the reason why very recently we have introduced in connection with the appraisal of properties which are to be foreclosed, not in connection with the original appraisal incident to the purchase of a property, a property location code which will describe the property as being in an area all-white or in a area of mixed race or all-black. Thus, in the future when one of our properties is sold and we know that the buyer is a black veteran or nonveteran we will know whether that house is in an all-black area, in an all-white area or in a mixed area. But as of this moment we could not tell you, sir.

MR. JOHNSON. Just for clarification, the figures to which I referred in Mr. Dervan's remarks are all previously occupied houses.

MR. POWELL. Beg pardon? Would you say that again?

MR. JOHNSON. The statistics that I used, sir, and the remarks of Mr. Dervan are related to VA-acquired properties, all previously occupied housing.

MR. POWELL. I see.

We understand that VA repossesses houses at the rate of between 1,100 and 1,200 a month; is that correct?

MR. JOHNSON. That's correct.

MR. POWELL. I think you are to be commended for your just announced policy of requiring purchasers of that property to give a pledge that they will not in selling the property—will sell on an equal opportunity basis. Do you have any way that you are going to police that?

MR. JOHNSON. Yes, indeed, we do. And in fact, these are some of the things that I asked, as we made the basic decision to move forward with this new policy and with the new opinion of the General Counsel. As of this moment I cannot give you definite regulations—they have not been written as to how we will police it but we recognize that there is a problem here in the future for us to monitor and to supervise.

MR. POWELL. Well, with respect to these repossessed houses, do you have the authority under Title VIII to require brokers who sell such repossessed VA houses to conduct their whole business on a nondiscriminatory basis?

MR. JOHNSON. Yes, indeed. And we do require this. And we also have a working arrangement with the Department of HUD so that if we find a broker in violation of our agreements that they can suspend, or will suspend upon our recommendation, and we will likewise, if they find discrimination and so inform us, we also suspend that broker.

MR. POWELL. They are required to sell all their houses, not merely repossessed VA houses on a nondiscriminatory basis; is that

correct?

MR. DERVAN. Mr. Johnson's initial answer, Mr. Powell, was directed to the supposition that your question concerned solely the sale of VA acquired or repossessed property, whereas I think your question does relate to a broker who is also handling the sale of properties on a conventional financing basis.

MR. POWELL. Let's put this into context.

We are talking about property owned by the Veterans Administration, houses owned by the Veterans Administration. The Veterans Administration can then choose which brokers they are going to use in the sale of these houses. Now, in choosing the brokers that you want to use to sell these houses, couldn't you require as a condition of doing business with the Government that they agree not to discriminate in the sale of any of their houses, not merely houses owned by the Veterans Administration? Don't you have that authority under Title VIII?

MR. DERVAN. I really don't know whether we have the authority. I will say that up to this point our certification, Mr. Powell, has been simply confined to operations in respect to VA acquired properties. They must certify in respect to those properties.

MR. POWELL. We do have a Federal policy, an example of that is the Office of Federal Contract Compliance which operates under Executive Order 11246, and under that order the policy is that when the Federal Government does business in the purchase of services or goods, that it requires those with whom it does business not to discriminate.

Now, it seems to me there is a parallel here. The Government owns property and it is going to sell that property, it ought to require people who act as their agents in selling that property not to discriminate. Now, in the Office of Federal Contract Compliance, the Federal contractors are required not to discriminate, not merely with respect to that portion of the business in which they are manufacturing Government goods or services, but with respect to their entire business.

It seems to me that the parallel here is quite clear, and I would suggest that you look into that question and let the Commission know whether or not you feel you have that authority.

MR. JOHNSON. Mr. Powell, just to prove that Government can make decisions. General Counsel and I have just discussed this. It had not been raised with me before. The General Counsel has just been instructed verbally to investigate and supply me with an opinion. We would be glad to submit it for the record, and I might say that I am in complete sympathy with the point that you raised.

(The opinion referred to is part of Exhibit No. 55.)

MR. POWELL. Thank you very much.

Now, with respect to the Section 808(d) of the Title VIII of the Fair Housing Act of 1968, all Federal Agencies are required to administer their programs relating to housing in a manner affirmatively to further the purpose of this title. You mentioned that you have recently assigned some new people in connection with this work. How many people does the VA have assigned to carry out the equal opportunity in housing program in the Veterans Administration? How many full-time

people do you have?

MR. JOHNSON. There are two specialists on Mr. Dervan's staff here in central office in Washington. They are the specialists who must supply the field offices with the information. Because of our programs with total benefits, and because I believe that we do have a good record in the whole area of minority relationships, we have separate officers who are concerned about equal opportunities in all other fields and there is some cross-servicing, so to speak. Mr. Parker is my personal representative and counselor in the whole matter of equal opportunity and his authority does range some distance.

MR. POWELL. Let me make sure I understand you.

You only have two full-time people whose responsibilities are exclusively and primarily concerned with equal opportunity; is that correct?

MR. JOHNSON. In the matter of housing, that's right.

MR. POWELL. But yet you make loans in the hundreds of thousands of dollars and you have 49 field stations all over the country. Do you think that two people can begin to do the kind of investigation necessary to see to it that these nondiscriminatory regulations are actually carried out?

MR. DERVAN. Well, obviously, I think that two people for a complete monitoring is not adequate in respect to a volume of in the neighborhood of 150,000 to 200,000 sales per year.

MR. POWELL. Would you consider asking—

MR. DERVAN. I was going to add, though, if I may, sir, that Mr. Englisher and Mr. Cox, who are the members of my staff, travel to all of our local offices and meet with the personnel in our offices and also with the local fair housing groups in the various areas in which the offices operate and it was through their efforts that, for example, that we were able to establish the assistance projects which we have underway here in Washington, D.C. and in Chicago.

MR. POWELL. Yet you only have two people to go to all 49 field stations? Do you think that it would be helpful to ask Congress to increase your appropriations with respect to this kind of personnel? If you're actually going to—in view of the President's statement about seeing to it that we get results, wouldn't you think that you should do this?

MR. JOHNSON. We believe that the Congress, in line with the President's recommendations, is going to give us some relief overall in our loan guaranty divisions as to the number of personnel and most assuredly some will fall into this category.

If I may, sir, I think you used the figure of 49 field offices. Actually, for the record, there are 57 regional offices, so that we have the right numbers. The Home Loan program is administered through 49 of these regional offices.

MR. POWELL. It makes the problem even worse.

MR. JOHNSON. Yes.

MR. POWELL. Mr. Johnson, one of the chief components of the President's program to achieve equal housing opportunity is the development of policies relating to housing, marketing policies. What are

some of the things you have considered doing in implementing this policy? What about implementing regulations on what constitutes discriminatory advertising?

MR. DERVAN. Let me put it this way. As you are aware, Mr. Counsel, the Department of Housing and Urban Development has recently promulgated proposed guidelines for housing advertising. These have been published in the Federal Register on a notice basis. We have notified the Department of Housing and Urban Development that when these guidelines are finalized they will also be the position in respect to VA.

I might add, Mr. Counsel, that in respect to advertising concerning houses, acquired by the VA and offered for sale by us through real estate brokers, we specifically require this advertising to contain a statement that the housing is available without regard to race, color, or creed. We also require the broker to post on the front lawn of that house a large distinctive sign which says in effect: "No Discrimination, Available for sale to anybody."

MR. POWELL. Now, with respect to advertising, isn't there a method by which a builder can obtain VA approval to advertise property in large unit developments as VA-approved housing?

MR. DERVAN. Some builders have used this term. We do not approve housing as such. What these builders are referring to when they use this term, Mr. Counsel, is the fact that the property has been submitted to the VA for appraisal. We have examined the site and the properties and the plans and specifications, made a determination that they meet our subdivision requirements, that they meet our minimum property standards, and based on the plans and specifications submitted to us we have made a determination of the reasonable value of that property and have issued a certificate to the lender which in effect is a commitment on value. In the sense that we approve advertising or other factors, no.

MR. POWELL. Now, then, the term, VA-approved, means merely that this housing meets VA standards. Is that correct?

MR. DERVAN. Yes, that an eligible veteran who is desirous of purchasing a house in that subdivision which has been appraised by us can, if he meets income and credit requirements, have a loan made to him guaranteed and thereby finance the purchase of that house.

MR. POWELL. If he meets your income and credit requirements, that's an aid in the marketing of that housing; it's an advantage to the builder, isn't it?

MR. DERVAN. There is no question, Mr. Counsel, that the veterans' market has been important to many builders throughout this country.

MR. POWELL. In that instance, couldn't the VA require the builder not to discriminate in the sale of housing to nonveterans?

MR. DERVAN. Well, we do require, sir, that he certify to us that he will not discriminate in the sale of that housing on the base of race, color, or creed, and if I am accurate, if my memory is accurate, the certification is not limited to sales to veterans, as such.

MR. POWELL. Well, in policing the activities of such builders do you inquire as to whether they are discriminating with respect to non-veterans as well as veterans? You might not have the—

MR. DERVAN. I must say, Mr. Counsel, that there is no positive ongoing program of monitoring by actually going out to a subdivision at the present time and saying: "How many sales have been made to Spanish origin? How many have been made to blacks, and whites, and so forth?" At the present time our monitoring procedure, other than what our people know is going on because of their knowledge of the area and the applications coming in, is a situation in which the person aggrieved files a complaint and then we investigate. This is the situation at the moment.

MR. POWELL. But your racial gathering data—do you intend to use that data for this purpose?

MR. DERVAN. Yes, this is one of the purposes for which we have undertaken this.

MR. POWELL. We would certainly be interested in knowing what your position is with respect to whether you can require nondiscrimination in the sale of housing to nonveterans, when a builder is advertising his property, all of his property, as VA-approved?

MR. DERVAN. Well, this is a factor that will be considered by General Counsel, I'm certain.

MR. POWELL. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Thank you very much, you anticipated me. I was just going to get some Commissioners in here.

Mrs. Freeman, do you want to—

COMMISSIONER FREEMAN. My question relates to the statement that: "We examine the site and the properties and make determinations that they meet the subdivision requirements." Would you tell the Commission who it is—I mean what is the position of the classification of the person who makes that examination and determination?

MR. DERVAN. This examination is made by personnel in our local offices whom we generally describe as construction analysts. What they do is they go out and they personally visit the proposed site of the subdivision, look at its geography, surrounding factors. Then they look at his proposed subdivision development plans and then, the facilities such as the sewage, water, so forth, and then finally the plans and specifications for the houses themselves.

COMMISSIONER FREEMAN. Could you give the Commission information as to how many of these construction analysts are members of minorities, black, Mexican Americans, Indians, etcetera?

MR. DERVAN. In respect to specific specialists, no, but I can tell you generally that we have about 2,100 loan guaranty people in all of our offices throughout the country and of that total, roughly 15 percent are minority people.

COMMISSIONER FREEMAN. Well, could you give us the breakdown in terms of the classification and the right to make these kinds of determinations by race?

MR. DERVAN. I could supply this to you.

COMMISSIONER FREEMAN. That's what I'm saying. Would you?

MR. DERVAN. Yes, I would.

(The information referred to is included in Exhibit No. 55)

COMMISSIONER FREEMAN. Now, what are the determinations to be made by VA when there is a direct loan made? What is the difference between the guaranty and how do you make the distinction as to race with respect to—do you have a breakdown on this?

MR. JOHNSON. First of all, on the direct loan program, by law the Administrator must determine a given area as a credit shortage area, and this is primarily rural America. The less populated areas may qualify for direct loans, if private financing is not available.

COMMISSIONER FREEMAN. What about a community, an inner-city, where perhaps all of the minorities would find it impossible to get credit, would that be considered a credit shortage area?

MR. DERVAN. Under the governing law, Mrs. Freeman, there would be no basis to make a determination that a credit shortage area exists on the basis of the racial factor. The law says we are not confined to rural areas, small cities, and towns, not near large metropolitan areas where private guaranteed loan financing historically has not been generally available. So we have to determine, Number 1, if this is a rural area, or a small city or town, not near a large metropolitan area, and then in respect to these specific areas, if private guaranteed financing generally has not been available in the past.

COMMISSIONER FREEMAN. Has the Veterans Administration made any study with respect to the class, the minorities that may have systematically been excluded by lenders in either the rural or small towns, or the central cities?

MR. DERVAN. Well, in response to your specific question I would have to say that a formal study as such has not been made, Mrs. Freeman. However, we did undertake on an experimental basis several years ago a followup with veterans, black veterans, who had indicated to us that they were going into the housing market to locate housing suitable for their families. We did this when the individual came into the office and applied for a certificate of eligibility, which is the first piece of paper he has to have to evidence eligibility.

Then in those cases, where it was noted that he was a black veteran, for example, we sent a questionnaire to him to ascertain whether his efforts had resulted in a loan or having noted that he hadn't submitted an application to us, we sent the questionnaire to him to learn why. And there were only a very few instances in which the individual ascribed their not getting a house to discrimination.

COMMISSIONER FREEMAN. About how long ago was that survey made?

MR. DERVAN. I would say that was about—I think we terminated that about two or maybe three years ago. But the results we could show you. We still have the results.

COMMISSIONER FREEMAN. Well, my other question—

MR. DERVAN. My point, Mrs. Freeman, is that we have been trying to do something in this area.

COMMISSIONER FREEMAN. This Commission still receives the information that the black veteran finds it difficult to find a lender, and we would just like to know if we could get the facts on this.

MR. DERVAN. Well, I can speak only from personal experience and observation, and I've been in this business for quite a while. My own feeling, or my own impression, is that income is one of the factors which is operating more acutely today than perhaps a few years ago. In the recent years, the escalation in the cost of housing has been such that coupled with the rather substantial rise in interest rates, has placed the cost of mortgage financing, particularly to a veteran who is in need of 100 percent financing, which our program provides for, has priced him out of the market, whether he's black or whether he's a white veteran. But I think it's generally recognized that in respect to income it's probably that black veterans are more likely to be in the lower-income range than white veterans.

COMMISSIONER FREEMAN. But does not that situation suggest that the Veterans Administration might extend its direct loan program and recommend additional legislation to include the cities?

MR. DERVAN. Well, I think that the policy of the Government is reflected in the assistance programs which HUD is administering. In other words, those programs are directed to providing either mortgage assistance subsidy payments to the people in the lower- and moderate-income ranges, or through providing for reduced rentals through assistance under the 236 Program.

COMMISSIONER FREEMAN. Is it your position then that you do not see the need to recommend any improvements in the existing policies of the Veterans Administration?

MR. DERVAN. My position is that there is always room for improvement in any operation and, as a matter of fact, yesterday I devoted very considerable time with some very able leaders in the investment community, such as the Dime Savings Bank of New York, and the Five Cents Savings Bank of Boston, as to just what we could do to increase the housing assistance to veterans, particularly younger veterans coming back from Vietnam, and of course Vietnam veterans include a very large proportion of blacks.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. Mr. Johnson, one of your colleagues gave some figures which interested me. In the last 3 years, apparently your high point in number of VA loans for housing is 213,000?

MR. DERVAN. In the past 3 years, yes.

COMMISSIONER MITCHELL. How—historically going back to the years after World War II, how does this relate—

MR. DERVAN. I would say, Mr. Commissioner, that in the mid-fifties, it was either 1955 or 1956, we approached the half million mark, in that neighborhood.

COMMISSIONER MITCHELL. You were operating at almost a half million a year at that time?

MR. DERVAN. At that particular time.

COMMISSIONER MITCHELL. And do you recall that the concern for racial problems in the making of those loans and in the behavior of builders and sellers of homes was the same as it is today or less intense?

MR. DERVAN. My impression today, Mr. Mitchell, and again I'm stating a personal impression, is that housing opportunities for the individual who is credit qualified, who has the income, is better than it was in the earlier years.

COMMISSIONER MITCHELL. Are you talking now from a racial or—

MR. DERVAN. Yes, from a racial standpoint.

COMMISSIONER MITCHELL. You think there has been substantial improvement?

MR. DERVAN. I think so. I think the attitude of the participants in the industry has changed, just as I think the people, the Nation as a whole have changed.

COMMISSIONER MITCHELL. In retrospect, of course, looking back over those years then we would probably agree that VA has funded a great deal of white suburbia and has its footprint in a lot of racial situations that now have come back to trouble us as we look at suburban development.

MR. DERVAN. Well, I believe it was Secretary Romney who stated that no doubt in the past that the operation of Federal policies, FHA and VA programs, which in effect responded completely to private initiative did result in this to a considerable extent.

COMMISSIONER MITCHELL. But in the resale of homes sold originally under somewhat less desirable conditions from the civil rights point of view, you now feel that there are adequate safeguards for the redesign of those same neighborhoods and those same suburban enclaves?

MR. JOHNSON. Yes, I think we have made substantial progress in this and particularly with some of the new initiatives which we have taken. And in addition to this, there is another factor, that upon the recommendation of the Administration and the VA, last year the Congress reinstituted eligibility for World War II and Korean veterans whose eligibility for guaranteed loans had expired, and we are beginning to feel now the impact of that because our request for appraisals and loans are up considerably.

COMMISSIONER MITCHELL. Can we walk through a VA loan—let us assume I'm a veteran, which I happen to be as a matter of fact, and I want to buy a house, and I live in Denver, let's say, and I found a house in the city or in suburbia, and I don't have the means to buy that house without assistance from the Veterans Administration, what's the first thing I do?

MR. DERVAN. Once you have located the house, and let's say this is not in a subdivision, this is somebody who is being transferred and he has his house up for sale, Mr. Commissioner, and you are driving through there and you noted it, so you go to the broker and you say: "How much is the house?" He tells you and that seems to be a reasonable price, and you say, "All right, I would like to buy this house." So you sign a contract subject to your getting a VA loan of a prescribed

amount.

Now, just to make the example as clear as I possibly can, Mr. Commissioner, let's assume that the sales price of the property is \$25,000. Let's assume also that you are in a position where you can pay \$1,000 down on closing costs but you can't make a substantial down payment, but you know that the VA program provides for 100 percent financing. So in this case the broker would say: "All right, I will have the house appraised by the VA to determine its reasonable value," and at that point he would say: "Pay me \$40, Mr. Commissioner," and you would pay it, and then he would arrange to submit a request for appraisal to VA.

Upon receipt of that request, Mr. Commissioner, we would designate a local private fee appraiser to go out and appraise that property and submit to us an appraisal report.

COMMISSIONER MITCHELL. Now, this appraiser has indicated to you that he doesn't discriminate, that he is not an appraiser for discriminatory housing?

MR. DERVAN. Well, we don't require it of appraisers, as such, no, sir.

Now, when his appraisal report comes in, let's say that it says the value of this house in his opinion is \$25,000.

COMMISSIONER MITCHELL. Now, let's say I bought a house right in the middle of a black section, is he influenced by that in his appraisal?

MR. DERVAN. No, sir, because our directives say that: Consider what the value of that property is, the fair market value.

COMMISSIONER MITCHELL. Let's say I bought a house in the middle of a white section that is beginning to turn black?

MR. DERVAN. Again they are to appraise what is the market value—

COMMISSIONER MITCHELL. Who are they looking out for, the lender or me?

MR. DERVAN. They are looking out for the veteran and for the Government's interest. The purpose of that—

COMMISSIONER MITCHELL. The Government's interest is getting paid back.

MR. DERVAN. The Government's interest is having an adequate security for the loan, that we don't guarantee an excessive loan on the security of the property.

COMMISSIONER MITCHELL. Now, you are saying he doesn't care really whether that neighborhood might be affected by changing—

MR. DERVAN. He is under instructions, under the policies which we have established. Race is not to be a factor for increasing or for reducing values.

COMMISSIONER MITCHELL. Do you spot check them?

MR. DERVAN. We try to check 5 percent of our appraisals.

COMMISSIONER MITCHELL. He makes an appraisal—

MR. DERVAN. All right, sir, and the appraisal report comes in with a valuation equal to the sales price.

COMMISSIONER MITCHELL. The appraisal report—I'm a bank

director, so I'm not guessing at this, is that the form that has a picture of a house on it, and he makes a comment about the kind of neighborhood the house is in?

MR. DERVAN. Yes, sir.

Now, he comes back with a \$25,000 valuation, in his opinion. Our people check his report against comparable valuation data, sales data, that we have in our files, in our geographical files, and let's assume that is completely consistent with our data, then in that case we would issue a certificate of reasonable value in the amount of \$25,000.

Now, in most instances, Mr. Commissioner, a broker will have some connection with a local lender, originating mortgages and he may say: "Well, you can take your own lender or I know that so and so down here is making loans in this area, so go and see him and apply for your loan."

COMMISSIONER MITCHELL. Do you check to see whether the broker—lender, makes loans on any racial basis, or doesn't make loans when racial characteristics are involved?

MR. DERVAN. There is no specific check as such, Mr. Commissioner, but the regulation which we have out says that a prejudicial practice shall be the basis for your suspension from further participation in the program.

COMMISSIONER MITCHELL. Now, at the bank where I sit on the loan committee and look at these loans I see nothing on your form that says that, I just pick up a loan and your form just says—

MR. DERVAN. That is correct.

COMMISSIONER MITCHELL. It doesn't say: "You better be careful if you turn this loan down because you have a racial interest."

MR. DERVAN. However, the Lenders' Handbook, if you look at the Lenders' Handbook, Mr. Commissioner—

COMMISSIONER MITCHELL. But the loan committee doesn't look at the Lenders' Handbook. Why don't you put it on the form, by the way?

MR. DERVAN. Well, it's a thought. Neither we nor the FHA have done it as yet, but it's a thought.

COMMISSIONER MITCHELL. A bank director is capable of about as much prejudice as almost any other citizen around and yet he sits there and looks at those loans, and can shake his head and say: "Gee whiz, we are making too many of these kinds of loans," and discourage the lending of money to racial groups.

MR. DERVAN. Well, of course, the directorship of a lending institution determines what their policies will be, as you know, sir, in respect to location, in respect to percentage of loans, and so forth and so on.

COMMISSIONER MITCHELL. The directorship of a lending institution is not always a direct path to heaven.

MR. DERVAN. Correct. All right, the \$25,000, he applies for a \$25,000 loan, and perhaps for the benefit of the other members of the Commission, because I'm sure you already know it, the theory under which a lender is willing to make a \$25,000 loan on a \$25,000 property is that our \$12,500 guarantee of payment reduces that lender's initial exposure from a loan standpoint to a \$12,500, and since he has a

\$12,500 loan exposure against the property which appears to be worth \$25,000, he's just as willing to make it on a guaranteed basis as in a case where the individual comes in and says: "I'm paying down \$12,500 cash, would you make me a twelve-five loan?" This is the theory.

COMMISSIONER MITCHELL. The difference in interest rates?

MR. DERVAN. Yes.

COMMISSIONER MITCHELL. At this point the bank makes the loan?

MR. DERVAN. Right, sir.

COMMISSIONER MITCHELL. And you are advised?

MR. DERVAN. Yes, it reports the loan to us and then we issue a certificate of guarantee which evidences the fact that we have entered into a contract with the lender, that we will guarantee repayment.

COMMISSIONER MITCHELL. Suppose the bank won't make the loan? Do you have many turndowns from—

MR. DERVAN. I'll say this, I don't have data on the number of turndowns where the individual contacts the bank and the bank turns him down and says: "I'm sorry, we can't accommodate your desires in this instance." We do know that, in respect to the applications which the bank passes initially and says: "This appears to be all right, we'll submit it to the VA for prior approval," in about 15 percent of the cases submitted to us we do turn them down where they come from lenders.

COMMISSIONER MITCHELL. Do you have figures on the percentage of applications or appraisals you make that don't materialize as final acquisitions of homes?

MR. DERVAN. Well, yes, we do. I can indicate it this way. For example, last year virtually 392,000 requests for appraisals were submitted to the VA. In the same calendar year, as I indicated earlier, we had about 194,000 applications received and in the same year, 167,000 loans were actually closed. Now, there is some lag always between appraisal and so forth, but on the other hand, many individuals will obtain a VA appraisal or an FHA appraisal as a measure of "What shall I fix as my sales price for the property?"

COMMISSIONER MITCHELL. Do you see in communities where you are doing a lot of lending a sharp distinction between the sources of loan funds? In other words, are there black banks that lend to black people and banks that just don't ever show up in those kinds of loans?

MR. DERVAN. Well, I really don't have any reliable information on that.

COMMISSIONER MITCHELL. I should think it would be of interest to VA to know where people of different racial characteristics are getting their money from.

MR. DERVAN. Well, again, I—

MR. JOHNSON. Mr. Commissioner, the thing that is important to us at the moment is that veterans can find some financing, conventional financing and our loan guaranty officers at the individual stations do know where the sources of money are and will assist veterans to find them. The sources do change from time to time and the availability of funds, and if I dare mention it to you, but savings and loan associations at times have more funds available as compared to the com-

mercial banks, and the situation changes. And our loan guaranty people are conversant with the local conditions, and furthermore assist the veteran in securing those sources.

COMMISSIONER MITCHELL. At this moment your impression is that anybody of reasonable suitability as a borrower can buy a house who is entitled to a VA guarantee, and will have no trouble finding financing.

MR. DERVAN. If the individual has a reasonably good credit history, Mr. Commissioner, and there isn't any serious problem about his income in relation to the housing debt he proposes to undertake. I don't think he'll have any problem. The difficulty that we get into lots of times is when our rate is not fully competitive with alternative investments which lenders may make, and I would just like to go back a moment, Mr. Commissioner.

With respect to the identity of people who are making loans—lenders who are making loans to black veterans, the very purpose of putting on the application form the race of the applicant is to develop this intelligence which heretofore we did not have. Thus we could not say that specifically out of 100 guaranteed loans made by X lender last month, five, ten, or zero, were made to black veterans.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Gentlemen, we are running a little behind. The Vice Chairman wants to ask a couple of questions. I wish we would be real brief with our answers because we have Mr. Kunzig coming in about 10 minutes and we have to take a break.

VICE CHAIRMAN HORN. Well, I'm going to ask a series of questions first which I don't expect an answer on completely now, because we do have a problem of time, but I do want an answer from the VA submitted for the official record.

Now, getting back to follow up Commissioner Mitchell's point, what law, Mr. Johnson, prevents you from requiring the appraisers to whom you are paying fees from signing an antidiscrimination pledge in order to be a VA appraiser? Have you got a law that prevents you from adding that pledge?

MR. DERVAN. There is no law that I know of.

VICE CHAIRMAN HORN. As a matter of policy would you think it's wise to add that pledge?

MR. DERVAN. I would say this, Mr. Horn, that I think we should study the matter. We do require the appraiser to certify that he has no interest, financial or otherwise—

VICE CHAIRMAN HORN. Could we add that he also has no discriminatory interest?

MR. DERVAN. Yes.

VICE CHAIRMAN HORN. Can we seriously get down to this? This is a simple thing of one sentence.

MR. DERVAN. Yes.

VICE CHAIRMAN HORN. And you are paying out millions of dollars in fees?

MR. JOHNSON. Mr. Vice Chairman, I would say that it does need exploration, but if we are to expect a veteran, a purchaser, to sign that,

then we should expect others who are involved to sign it, and we shall explore it.

VICE CHAIRMAN HORN. Well, all I am saying is, there are millions of dollars raised from black citizens and white citizens and brown citizens going to pay appraisers and I think the least the VA could do is nail them down with an antidiscrimination clause.

MR. DERVAN. The Government should have the same policy.

VICE CHAIRMAN HORN. Well, could we start with the VA and maybe set a trend for the Government?

Now, I'd like to suggest, and I don't want an answer to this now, that you obviously have a research staff, that a random sample be conducted on those loans that are turned down and do not materialize because the private financing doesn't materialize, if there are such loans, and that we do a spot check on a statistical basis as to how many are blacks, browns, other minorities, whites, etcetera. Now, I don't ask for an answer on that today.

(This information is discussed in Exhibit No. 55.)

VICE CHAIRMAN HORN. Now, let me get to what I had originally intended to ask.

Number 1, to what extent was the Veterans Administration involved in the preparation of the President's housing message? Were you consulted?

MR. JOHNSON. Mr. Vice Chairman, yes, we were, we made input as to our procedures and what had taken place and what we were contemplating.

VICE CHAIRMAN HORN. Mr. Johnson, are you a member of the Civil Rights Subcommittee of the Domestic Policy Council?

MR. JOHNSON. No, sir.

VICE CHAIRMAN HORN. I would think certainly there ought to be some attempt to get you on that since you have a major impact in the housing market.

Now, in both the background statements by Mr. Garment when the President's message was released, on page 11, and on page 34 of Attorney General Mitchell's press conference on Monday, there is a reference constantly made to the role of HUD as the lead agency in this whole area, and I'm trying to get at whether the role of HUD is merely limited to its own departmental jurisdiction or whether it would include across-the-board housing activities in the Federal Government as pertaining to getting at the problem of nondiscrimination?

What's your conception of the role of HUD in relation to your agency?

MR. JOHNSON. It definitely is the lead agency within the Government and that we are consulted and initiate consultations, too, as far as that goes, on all matters.

VICE CHAIRMAN HORN. In the regional level then, you do have some sort of apparatus where your people in those 57, I believe, field offices can relate to HUD at the regional basis to make some of these decisions?

MR. DERVAN. On technical matters, for example, there is very

close coordination.

VICE CHAIRMAN HORN. All right.

Now, I guess what I am going to get down to in the last question, are those two gentlemen that you have sort of as civil rights monitors, if you will? I don't want you to expound on their descriptions today, and I realize that sometimes job descriptions in Government, corporations, and universities are phony, but I would like you to furnish for the record the official job descriptions of both of these individuals because the basic concern I have listening to this testimony is, we have a Presidential message with a housing policy, we are supposed to get the bureaucracy to carry out the mandate of the Chief Executive. I'm worried when we don't have sufficient resources, sufficient will power, sufficient impetus at the bureaucratic level of this Government to carry out what the President of the United States, in fact the last four Presidents, and several Congresses of the United States, want to do in this area. So I would appreciate any advice you could give the Commission in that regard. Thank you.

(The job descriptions referred to are part of Exhibit No. 55.)

CHAIRMAN HESBURGH. We are very grateful, Mr. Johnson, to you and your associates for coming today. I can tell you it's been quite a jump since the last hearing we had regarding VA. At that time all the repossessed housing was only shown to the members of the race that left it. Black housing was only shown to blacks, and white housing was only shown to whites, and there was a dual system within the VA. I take it, that's completely gone now?

MR. JOHNSON. Yes, indeed, and I think that, you know, we could draw the diagram of that progress, since this was first initiated. There has been a very substantial change.

CHAIRMAN HESBURGH. We appreciate very much your being here, and we—Bob, are you anxious to have a question?

COMMISSIONER RANKIN. I'm foregoing it.

CHAIRMAN HESBURGH. Well then, we will have a 5-minute break and thank you very much for coming.

CHAIRMAN HESBURGH. Mr. Kunzig, would you and your associates stand, please, and be sworn?

(Whereupon, Mr. Robert L. Kunzig, Mr. Harold S. Timmer, Jr., Mr. Edward E. Mitchell, Mr. Arthur F. Sampson, and Mr. Herman Barth were sworn by the Chairman and testified as follows:)

TESTIMONY OF MR. ROBERT L. KUNZIG, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION; MR. HAROLD S. TRIMMER, JR., ASSISTANT ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION; MR. EDWARD E. MITCHELL, DIRECTOR, OFFICE OF CIVIL RIGHTS, GENERAL SERVICES ADMINISTRATION; MR. ARTHUR F. SAMPSON, COMMISSIONER OF PUBLIC BUILDINGS OF THE UNITED STATES; AND MR. HERMAN W. BARTH, DEPUTY GENERAL COUNSEL, GENERAL SERVICES ADMINISTRATION, WASHINGTON, D.C.

CHAIRMAN HESBURGH. Would you introduce your associates, Mr. Kunzig?

MR. KUNZIG. On my right, Mr. Chairman and members of the Commission, is Commissioner Arthur F. Sampson, Commissioner of Public Buildings of the United States. On my immediate left is Harold S. Trimmer, Jr. the Assistant Administrator or Number 3 man in the Agency. On his left is the Director of the Office of Civil Rights, Edward E. Mitchell. And on the far end is the Deputy General Counsel, Mr. Herman W. Barth.

CHAIRMAN HESBURGH. Thank you, sir. Mr. Powell, will you proceed?

MR. POWELL. Mr. Kunzig, would you please briefly describe the function of your Agency as it relates to the acquisition of space for Federal Agencies?

MR. KUNZIG. As the General Services Administration was put together by the Hoover Commission in '49 it has many, many functions and is one of the few Agencies in the Government that crosses the entire border of governmental activities.

One of our five services is Public Buildings Service, headed by Commissioner Sampson on my right. One of the things we do there is to acquire space. Another is to build public buildings. Another is to manage over some 10,000 Government buildings.

MR. POWELL. Mr. Kunzig, in the normal situation, does GSA or the Agency needing space select the community in which a facility will be placed?

MR. KUNZIG. There are many discussions with the Agency before a building is acquired. As a matter of fact, the sole consideration used to be the interest of the Department or the Agency that was acquiring the building. That and cost, of course, which is always a consideration.

In the 2 years we have been at GSA, we have brought forth proposals to the White House which resulted in Executive Order 11512, which I know we're going to be talking about this morning. We proposed the order to the President and were delighted when he adopted it.

Now socioeconomic factors are taken into consideration in addition to the interests of the Agency itself as to where the facility goes.

MR. POWELL. Mr. Kunzig, in the past few years have a substantial number of Federal facilities been constructed or leased in suburban communities throughout the country?

MR. KUNZIG. Not nearly as many as you might think there are. And since there have been many mis-statements about this, particularly in the press, I would like very much to take a minute here and I ask permission to do this to tell you what our policies are.

First, let me tell you regarding the buildings which are in the cities you asked us about recently. Two people that have been moved out of Atlanta, Georgia, during 2-½ years that I have been head of the GSA. In Boston, Massachusetts, only 105 Federal employees have been moved out of the city during my tenure of office. In Chicago, Illinois, zero. In Detroit, Michigan, 1,259, but they are to return to the city and that is guaranteed because we are now constructing a building in the

city which they will come back to. Houston, Texas, 23 people. San Francisco, California, 22 people.

I would like to mention Washington, D. C., because I have had a policy since I've come here, a policy which I believe in very strongly, and which I put into effect almost immediately, involving civil rights and involving our people at GSA. There hasn't been too much activity in this area before, but we started a very strong policy of not moving, and I repeat that, not moving people out of cities, particularly in Washington, D.C.

I did this because I feel that people should be as close as they reasonably, possibly can be to the building in which they work.

With regard to figures for Washington, D.C. that you have asked for and which we have supplied, I would like to explain them very quickly here. 940 people moved to Crystal City—back of the airport. That's the Federal Supply Service, our own unit, but they were all moved before I ever took office.

The Library of Congress 581 people moved to Alexandria Mall. A few weeks after I came to office, Dr. Mumford, the Librarian of Congress, came to me and said they had a serious problem, heavy books were piled in certain areas and they had a serious problem with floor load and some floors had actually collapsed. He had looked all over and found a building that would hold books piled on floors that would do for a brief period of time. They are going to move back to Washington as soon as their planned building is finished.

The main one that you and everyone else have all talked about is the tearing down of the Navy Munitions Building. We had serious problems with those two buildings. One of our biggest problems was a rat problem, rats infested those two buildings. They hadn't been torn down as they should have been, as you know everyone knows this story, they were temporaries in the First World War.

President Nixon had the courage to say: "Take them down, they've got to come down." We were then faced, and I think the decision was absolutely right, we were faced with the problem of moving some 15,000 people. It was one of the most mammoth moves that ever took place in the Government.

Of course, we had to consider the needs of the Agency involved; in this case it was the Navy, mostly Navy, and they wanted to be as close as they could to the Pentagon. They were moved to buildings in Crystal Mall, which is just behind the airport, very close to the Pentagon.

Ladies and gentlemen, that move was at the shortest, 1.8 miles, and at the longest, 2.3 miles. True, they go across a bridge to get there, but I think, as was said in yesterday's testimony by Mr. Romney and others, you have somewhat artificial political boundaries in this situation. They moved across the bridge, but one of the most interesting factors which I didn't see any paper ever print, is that more than half of those employees lived in Virginia already, so for those people it was closer. Admittedly for others it was further away, but that was an absolutely necessary move which then had to be made, and those people moved 2 miles across the bridge, which is far less distance than we could have

moved within the District.

Bureau of Mines, 305 people. This was a back fill operation. Space was vacated in Roslyn, the Bureau wanted to go there. They said it was necessary for them to go there. We had a lease on this which we could not break, and there was a vacancy because we moved the people that were there back into the District, back into the District, gentlemen.

HEW Public Health Service, that's the famous Rockville, Maryland, move that keeps being put in the paper day after day.

The previous Administration moved 5,525 employees from the Public Health Service out into Rockville. There were 396 more to go when we took over. I made the decision, and I would make it again that those 396 belong with the others. I would have no right there not to move them out there. I completed the move begun by my predecessors.

Would they have gone there, the entire 5,800 and something, had this come up in my time? Answer, *no*, they would not have gone under my policies to Rockville, Maryland.

Smithsonian, Radiological Facility. We advertised for downtown lab space for 42 people and couldn't find any. We did find lab space in Rockville and moved those people there. That's one which we definitely moved and I take full responsibility for moving those people.

Next, five food inspectors who serve Northern Virginia were moved to Northern Virginia. Their job is in Virginia, and that's why they are asked to go to Virginia, and that's why HEW wanted them to go to Virginia.

Also, the Bureau of Indian Affairs asked for and received space for 12 people in Roslyn just across Key Bridge and not very far from the Interior Department.

The Interagency Auditor Training Center, Department of Commerce moved six people to Bethesda to combine in a postal training facility located there.

Civil Service Commission moved 110 people to Hyattsville, Maryland, because their field investigators are there and they wanted them in that area.

I don't think these moves are the type of thing we are talking about, but they are moves which we mention because they are moves out of the city.

Finally, 500 employees moved in '67 under an agreement then with AID to move them to Roslyn, Virginia. There were 525 left, which were agreed to move a year or so later. We continued that move under the theory that it was part of the same thing.

I would like to point out that we are officially responsible for moving 54 people out of the city, gentlemen.

In addition, I would like to point out that we have moved 4,056 people into the District. We have located the Environmental Protection Agency, Mr. Ruckelshaus' Agency, in Southwest Washington. We went out of our way to see that that stayed in the District. We advertised only in the District, and they are staying in the District. 1,264 people more than are now working in the District will come back into the District.

That is the picture of movements to and from the District since I took office. I think you'll see that very few people have been moved out of the District. We are trying not to move them out of the District. Many Agencies, and this isn't known because you don't see it, come to us and want to move out of the District. There's a long list of them. We have turned them all down. They have not moved out of the District and not moved into the beautiful green acres way out in Germantown or some other place, where they are away from the homes of the workers and the people that work there. The most obvious example that did receive some publicity is the Government Printing Office which had a "wonderful" place way out in the country. Gentlemen, they are not in the country and they have not moved because we blocked the entire thing.

I'm sorry to have taken some time with this, but I wanted you to know those facts because they are the true and correct facts as to what we've done at GSA.

CHAIRMAN HESBURGH. Mr. Kunzig, I'm happy you had time to do that because you may have noted I slipped over your statement. And I wanted to say that I am right now inserting it in the record.

(Whereupon, the document referred to was marked Exhibit No. 37 and received in evidence.)

If there are points in that that you want to refer to in your testimony, feel free to do so. But we find we get so much more out of dialogue than just listening to a long statement. We have it in the record already.

MR. KUNZIG. Your Counsel explained to us that there wouldn't be a prepared statement read.

MR. POWELL. Mr. Chairman, Mr. Kunzig has referred to information requested by the Commission which GSA has provided. At this point I would like to have that information placed in the record also.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the document referred to was marked Exhibit No. 38 and received in evidence.)

MR. POWELL. Mr. Kunzig, in the President's recent statement on Federal policies relative to equal housing opportunities, you stated that in implementing that provision of Executive Order 11512, which requires GSA to consider in selecting sites for facilities the availability of adequate low- and moderate-income housing, all Agencies must specifically take into account whether housing is in fact available on a nondiscriminatory basis. How will GSA implement this order?

MR. KUNZIG. We will continue to do what we have been doing and I think we're going to do it much, much better due to our new agreement with HUD, which I know we'll be discussing here.

The Commissioner of Public Buildings does this directly and will be doing it every day. He may want to discuss it.

MR. SAMPSON. The system we will use is to involve HUD in the early process when we have a request for space. For example, if we are contemplating constructing a new building, rather than waiting until we have selected certain sites, we will bring HUD people in and use their expertise in the selection of sites to give us advice on housing and

also other aspects of the Executive order that they are involved in.

For example, urban renewal, new towns. We involve them earlier in the process and get more benefit from their expertise.

When we are talking about leasing of buildings, we will get them involved in the delineation of the geographical area that we will use to go out and advertise for space, we will seek their advice and expert help at the earliest possible stage.

In addition, should we both find, as we process our requests for space that there is a need for more housing than is available at that time, we will work together to arrive at what is now called an affirmative action plan to see that housing becomes available. This is very specific in our agreement, that housing becomes available at the time Federal employees will occupy that space or within a short period of time thereafter.

I think the new development here as far as HUD and GSA are concerned is the formalization or codification of a working arrangement we've had with them since the Executive order came out in February of 1970. With the codification of course you have more teeth, and we will get more help from HUD which we need very badly to do our job in GSA as far as housing and other socioeconomic factors are concerned in the selection of sites.

MR. POWELL. Mr. Chairman, there's been reference to an agreement between the Department of Housing and Urban Development and the General Services Administration. At this point I'd like to have that agreement inserted into the record.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the document referred to was marked Exhibit No. 39 and received in evidence.)

MR. POWELL. Mr. Kunzig, this agreement of June 11th provides that HUD's advice regarding the availability of low- and moderate-income housing on a nondiscriminatory basis will constitute in the words of the agreement "the principal basis" for determining whether or not this provision is met.

Does this mean that there are other factors which will be considered in making this determination? How much weight will HUD's advice be given?

MR. TRIMMER. Mr. Chairman, if I might respond to that, the principal factor here is the advice of HUD. However, under the Intergovernmental Cooperation Act in B.B circular A-95, as well as the Executive order itself, we are required to consult with State and local and regional planning bodies and we would expect that there would be certain information on this same question of housing furnished in connection with that consultation.

The reference here was to permit us also to take into consideration such information as these local, State, and regional planning bodies might provide. But, again, the principal reliance here would be upon the advice of HUD.

MR. POWELL. In making this determination regarding the adequacy of low- and moderate-income housing on a nondiscriminatory

basis, who will survey the housing needs of the low-income employees of the Agency? Will HUD or the occupying agency do that?

MR. TRIMMER. I believe the survey initially of the needs of the occupying Agency will be done by the occupying Agency. The occupying Agency will tell us the grade levels of the prospective occupants of that building, where they live at the moment, and so forth. We would then furnish that information to HUD to enable it to make its determination as to the availability of adequate low- and moderate-income housing on a nondiscriminatory basis.

MR. POWELL. Who, if anyone, is providing criteria as to the type of information which should be solicited regarding the low-income employees? Would that be GSA or HUD?

MR. TRIMMER. You are referring now to the type of information which we would request?

MR. POWELL. Yes.

MR. KUNZIG. I would think that as these criteria for work on the new buildings come along the expertise there is at HUD, and HUD will have to tell the Agencies just exactly the kind of information it wants in order to make a sensible decision.

MR. SAMPSON. HUD would establish the basic criteria.

MR. TRIMMER. At the moment, however, Mr. Powell, what we have been supplying HUD with is the grade level breakdown and the current place of residence of those employees.

MR. POWELL. In this process, will the occupying Agency's employees and other private groups who have any substantial interest in the housing situation of the proposed area have an opportunity to express their views prior to site selection?

MR. SAMPSON. Unquestionably the process we have been following is to try as best we can in the area we are going into, and this has to be handled on a case-by-case basis, to meet with all of the interested parties. I think an example of the kind of work we are doing is in Brookhaven, New York. This particular case was after the fact, but we have learned there that it should have been before the fact.

In this particular case I personally went to Brookhaven, met with both the minority employment committees there and the minority housing committees. In this case it was an all-black minority. I explained to them what we were trying to do and how we could help them. I then met with the township officials and established a dialogue between them and the black community and GSA and HUD to try to optimize the results in that particular area.

MR. POWELL. Do you think that a provision providing that groups having substantial interest in the housing situation in the community being proposed for facilities should be included in the agreement? Do you think such a provision should be included in the agreement?

MR. KUNZIG. Let me answer this way, if I may, Mr. Powell. I want to be perfectly frank here and make sure that we understand the overall situation and problem in which we find ourselves.

Housing is not and cannot be the only thing that we consider. There

are two points that always have been considered. The first is Agency efficiency, whether it can do its job in the particular place we are talking about, and the second is cost to the Government and whether Congress is going to give us the money needed for it. Incidentally, Executive Order 11512 downgrades the Agency efficiency from "primary" to "material" consideration.

Housing is of course very important, obviously. Alleviating unemployment is another socioeconomic factor that we take into consideration under President Nixon's order. Rehabilitation of deteriorating areas, helping underemployed, all these are taken into consideration.

In addition, we take into consideration reinforcing other Federal programs, such as urban renewal, model cities, new town programs, all these. This is a mix. All these things must be looked at and studied, and in some cases one may be predominant and may be the deciding factor. In other cases several factors may be deciding. And housing, I want to be very honest, cannot be the only factor.

For example, you have a situation where they need a border station. There is no housing anywhere but the border station must be on the border. We cannot be in a position of saying: "The border station cannot go there." We have got to work it out somehow, with transportation or whatever, but the building must go there.

Another example is the Department of Agriculture studying — let's be ridiculous, the tetze fly, or something. There's a particular area in Alabama, and I'm not trying to pick on Alabama, where they have got tetze flies, and the building must be there because that's the only place they can study the tetze fly. There isn't housing for anybody, let's say. Then we have to make the best arrangements we can, but the building has to go there.

These are examples of our problem. We have to take all of these things into consideration. However, it no longer is just where an Agency itself wants to go.

The best example and first major test of Executive Order 11512 occurred in Fresno, California, where the Agency wanted to go in the northeastern part of the city, all-white, all lovely, pretty green trees, schools around, all the rest of the stuff. That was the only place they could go they said. They even had tests made and special people hired to show that it had to go there. We said: "No, first we study the site selection under the new Executive order." This was the first big case.

We met with the local officials—the mayor, the city council, the officials of the State, and of course, HUD, HEW, and Commerce. This takes time, and we had to move them because you can't sit forever on these things. The people need the building.

In this case it was the Internal Revenue Service that had to have the building. There were two other areas, a mostly black area, in the southwestern section of the city which is almost agricultural, and an area in the southeast section of the city which was very predominantly Mexican American, a rundown area, and an area which they were desperately trying to build up.

We worked out an arrangement where the people in IRS agreed that

they could really function, and obviously we can't put a building where nobody can function. They could function in the Mexican area, and the building was put there, with the agreement of everybody. A whole new redevelopment took place in that area, and the city now will move in that direction.

Thousands of jobs will be going to the Mexican Americans who live right there, and in other words, President Nixon's socioeconomic order worked and worked beautifully, and everybody is satisfied.

MR. POWELL. You mentioned that housing is only one of the factors considered when you place a facility. That's true, but I think the innovative feature of this agreement is that it provides that under no circumstances will a facility be placed unless one of two things is true, either there will be an adequacy of low- or moderate-income housing on a nondiscriminatory basis or the selection of that facility will be accompanied by an affirmative action plan which will see to it that there will be such adequate housing within 6 months.

I want to commend the GSA and the Department of Housing and Urban Development for entering into this agreement, because I feel if it is implemented it will go a long, long way towards—

MR. KUNZIG. I want to say one thing in fairness, I must say one thing, sir, because I don't want to leave any misunderstanding.

The affirmative action plan deals with the housing for our Federal personnel. There are two types of housing we are talking about here, housing for our Federal personnel and housing generally for the community, open housing, let's say, for the community. The affirmative action plan, and I'll read specifically the words here, says: "GSA and HUD will develop an affirmative action plan designed to insure...a sufficient quantity of low- and moderate-income housing available to the Agency's personnel on a nondiscriminatory basis."

In other words, if it is the other type, we take it into consideration, and it might result in our doing it or it might not. But when Federal employees are affected we must have the affirmative action plan, as you just stated.

I didn't want to leave a misapprehension there.

MR. POWELL. Regarding the limitation you have just mentioned about Federal employees, in the President's June 11 statement on housing opportunities, he stated that Federal programs must be aimed at correcting the effects of past discrimination.

In light of this requirement, don't you think that you ought to broaden your concerns to the needs of the community-at-large?

MR. TRIMMER. This is one factor, Mr. Powell, under what we, for shorthand purposes, refer to as Section 2(a)(2) of the Executive order. Housing really enters into play here in two areas. Such as in Section 2(a)(6) which is the section dealing with employees and this is the section with respect to which the agreement with HUD on an affirmative action plan is specifically directed.

But Section 2(a)(2) that deals with community factors and under 2(a)(2) we look at this whole host of community factors, everything from the ability of the facility to help relieve unemployment, to the

ability of the facility to aid in physical rehabilitation of the area, to the ability of the facility, again, to contribute generally to the housing situation within the community. And here as we have indicated in our prepared statement, we generally try to work with the community to obtain the maximum leverage that we can through location of that facility within the community.

But, as Mr. Kunzig has indicated, the specific need here under Section 2(a)(6) is really the specific need of our employees. Obviously, you have to have someplace for your employees to live when they come to work in that facility and that is why there is specific reference to an affirmative action plan within the agreement with HUD.

MR. POWELL. The low- and moderate-income people who would be in the community, were there sufficient housing, would constitute potential employees of the facility. Don't you have an obligation to potential employees as well as employees?

MR. KUNZIG. Well, if it were there for the employees, they could move there and become employees. I think that could very well happen.

MR. SAMPSON. I think it fits both categories.

MR. POWELL. With respect to the affirmative action plans which come into play when a facility is placed on a site with an inadequate supply of low- and moderate-income housing, how are they going to work? Will such plans include members of the local real estate industry, builders, developers, real estate marketers, financing agencies, community groups, local officials? Are you going — is it going to be a broad based involvement?

MR. SAMPSON. It has to be broad based in order for it to work, and again I would go back to our experience in Brookhaven where we did get involved with all of the community groups in order to make some kind of affirmative action plan work. Without those groups the plan will not work.

MR. KUNZIG. I think I could safely say this, Mr. Powell, although this specifically hasn't happened in this area yet in this fashion, that if we had absolutely no cooperation from the community and if everybody in the community said in effect: "Go to hell," to put it bluntly, they just wouldn't somehow get the building.

MR. POWELL. I see. I see. Very good. A couple more questions.

What types of commitments from the community would be necessary? For example, what is meant by the term in the agreement: "Removal of obstacles to the provision of such housing?" Does that include changing restrictive zoning ordinances, building codes, and other exclusionary land use controls?

MR. BARTH. I think it would basically have to include a sitting down and negotiating with the broad spectrum, as has been mentioned, to get them to remove any obstacles, and I think if there is an obstacle such as zoning, then you are going to talk to them about removing that.

Now, how far you can go and how far you can go to enforce something like that, is something that we are going to have to wait and see.

Obviously, this is a new agreement. We have no experience under it. We're going to proceed with it, we are going to try to do the best we can under it. If we find, as the agreement says, that it is going to need changing or re-enforcing at the end of a year, we'll do that.

It's awfully hard to sit here and speculate at this time exactly what we are going to run into in something that we really haven't tried before.

MR. KUNZIG. On that very point, Mr. Powell, we have had experience recently, a few months ago, in Wilmington, Delaware, in a slightly different area. This involved the affirmative action plan coming forth in a situation commonly called the Philadelphia Plan situation, although this was a new and local plan being worked out in Wilmington.

We got nowhere with the contractor who was the low bidder. Remember, we are required in contracting to award the bid to the low bidder because people come back and say, why are we spending millions more, it's the low bidder that should be getting this, and they think there is something corrupt and funny. In this case the low bidder wouldn't come across. We just got nothing, no plan, no nothing. So finally we did this. I issued a statement that, if by the next Friday, which was 6 days later, the affirmative action plan were not forthcoming, the bid would go to the second low bidder.

It was a most amazing thing, and I know you'll agree, within 5 days the plan was there, beautiful, just beautiful. And he got the contract and God is in his heaven and all's right with the world. But using that pressure did work very well.

MR. POWELL. One last question. How soon would GSA issue internal operating procedures to implement this agreement?

MR. KUNZIG. There are two reasons—one basic reason that I haven't been able to put out what I wanted to so far, is that we wanted to get some operating experience. Now, we have the agreement with HUD. We obviously need rules and regulations to go out as soon as possible, taking into consideration our experience so far plus the HUD agreement.

I would think we would put them out to the best of our ability, as soon as possible and then we can change them as necessary, based upon what we find the practice to be.

MR. SAMPSON. If I could add to that, we have a nationwide training program in operation right now, where we are experimenting with our personnel in the field, and from their experience in selecting sites and locations we are developing a comprehensive set of regulations and we should be done in early summer with that training program.

MR. POWELL. No further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Kunzig, you mentioned the move in Fresno and how everybody was satisfied there. What about the two moves to Rockville, Maryland; are people becoming satisfied with that or does opposition still exist to that move?

MR. KUNZIG. On the two moves to Rockville, Maryland, as I said

before, a large group went out in the previous Administration, and I'll take full responsibility for agreeing to the move of the last 500 in this Administration, but they had to be with the other people. Some of the people have complained that they didn't like the building. Frankly, we do get a lot of complaints on buildings. They had a small fire there, which got everybody scared about fires. We are doing the best we can with that, but HEW wants the people to stay there; they are there, and that's where they are at the present time. We have no other plans at the moment.

COMMISSIONER RANKIN. Are they any happier now than when the move was made?

MR. SAMPSON. The employees are happier. Whenever you move employees anyplace and you shake a building down, you have problems with the employees. They complain.

We did some special things for them as far as protection is concerned, in terms of guarding and fire protection, and the employees themselves are a little more settled.

I think the important point here, relating to this and what Mr. Kunzig said earlier, is if this move had been proposed under the new Executive order of this Administration they would not have moved there.

COMMISSIONER RANKIN. Do you think if they had the opportunity to move back, would they move back today?

MR. KUNZIG. Well, I guess whether they have the opportunity depends really on a decision of the Secretary of Health, Education, and Welfare, because we still must go to the Secretaries of the different Departments to get their opinion on these things. Whether they would want to come back for their own reasons or not, I do not know. They have not come to us in any way and asked to move back. They did, however, recently in the Education Department — and some of you living here probably saw those stories in the newspapers — issued a story which somebody leaked, I presume, that being the latest vogue today. The story was in the newspapers that they were going to move outside the city to Bethesda. I hasten to add that nobody had talked to us. So we just quietly smiled and called them up on the phone and said: "It might be nice, since we are the only ones that can move you, if you would discuss it with us." They had not talked to us about it, they are not moving out to Bethesda, or wherever it was. They then announced that they had changed their mind and they were not going to move to Bethesda. So they will not go, sir.

MR. TRIMMER. Dr. Rankin, one point I might make in connection with the Rockville building too, as far as relocating these people again now, unfortunately when the Federal Government takes a facility of that size for economic reasons we enter into a long-term lease, and we do have a 20-year lease for that facility now in Rockville. If they moved out we would then have a back fill problem, which is a recurring difficulty.

COMMISSIONER RANKIN. It all points up to the point that when moves are made like that it is well to look into the housing situation in that new area. Wouldn't you say that's what this points out?

MR. TRIMMER. We would agree 100 percent. That's the whole thrust and purpose of the Executive order.

MR. KUNZIG. But in fairness again, sir, there are always employees that don't like this. Somebody wants to be close to the golf course, somebody wants to be close here, and you just can't keep them all happy, as much as I would like to.

COMMISSIONER RANKIN. Now, my next question would be a good last question for our interview this morning—

MR. KUNZIG. It's all right with me, sir, if you wish to make that your last question.

COMMISSIONER RANKIN. "I have done my best to change this, to change attitudes, practices, and programs. More can be done and more should be done."

Could you amplify on that "more can be done" and "more should be done"? Are you going to take civil rights action on your own initiative or just what the law requires? I'm interested in your explaining your statement.

MR. KUNZIG. Sir, I'll explain part of it this way, and others may have further explanations. For example, in contract compliance we have a responsibility to try to use—again a current word—"leverage" to see that blacks or other minorities are hired in substantial proper number by different companies who buy from us, or deal with other parts of the Government. We have been assigned by the Department of Labor the responsibility of dealing with them.

We were assigned a certain number of these interviews and actions this past year. We were delighted and amazed to find that by working at it very hard—as never has been done in our Agency, we were able to hit 114 percent of our assigned quota—in other words, more than we were asked to do.

We also fought at the same time for more money from Congress and more people in the sense of ceilings. We got the people and the money. We hope that—final action hasn't been taken yet but it looks like we're going to get it. It ought to come in another month.

If so, we will more than double the actions that we can take in contract compliance and the actions we can take to try to see that this type of unfairness is cut down to a minimum.

There are other actions which I would like to mention that fit in here and which we are doing more of all the time. We totally reorganized our contract compliance area under the General Counsel and now have upgraded it again in the last few days to a situation in which Mr. Mitchell—to my left here—is now the head of a new Office of Civil Rights which has both our EEO and Contract Compliance offices completely under it.

I think we are one of the first Agencies or Departments not to have assigned that to somebody else who had other duties but to create a whole new unit totally for this and for nothing else. Just EEO and compliance. Mr. Mitchell will be at our Commissioner level which is our top level, and this has never happened before.

I would like to tell you a little bit about people at GSA. In vacancies

that I have filled, 30.9 percent have been filled by minorities, all over the United States of America. Thirty-four percent of my promotions have been minority. They weren't made because they were minority. I made it very clear. If I can do anything about it, nobody is going to have an unfair action taken against him because he is a minority, but he's not going to get promoted either just because he's a minority. I think it's fair all the way around and I think that's what we have been doing. In Grades GS-10 and 11.

MR. TRIMMER. One thing I might add there. One of the reasons this figure is as high as it is, is that when we came to GSA we discovered a situation that minority employees had, quite frankly, been held back for a number of years. Particularly in the first 12 months we were there the number of minority promotions was much higher than that percentage, because what we were doing was attempting to redress the previous imbalance and inequity which had existed.

MR. KUNZIG. Thank you, Ted, that's exactly right.

When I came, GSA had almost nobody above a GS-12 that was a black. Now at GS-10 and above, the increase has been 39.8 percent in jobs. We have two GS-17's, two men earning \$36,000 a year. One was Assistant Head of Administration of the whole Agency. That's the gentleman on my left who has just moved over to the new position, and the other gentleman is a scientist in our telecommunication area. So this is also part of what we are trying to do in the overall picture.

We have had executive seminars, and I think we are the only Agency and Department that has had this, and we're proud of this thing. We are the first Agency that has had these seminars for the entire top level of our staff. 1,322 people have attended special seminars which were run by Mr. Mitchell on my left and Mr. Daniels, who is in the audience here today, who is head of our EEO office. They brought in leading speakers, minority people from all over the country, who spoke to our top staff in full-day seminars after which many of the people came to me and said it was one of the finest things they had heard.

They were totally run and operated by Mr. Daniels and Mr. Mitchell and our entire top staff was exposed to this discussion of the problems in our country today.

We are one of the Agencies that has more blacks than almost any other Agency. We had 32 percent when I took over. We have now 36 percent of our employees who are black.

We have also instituted all kinds of new training programs in GSA to permit many minorities able to move laterally so they can go sideways and up in other areas, because it's the only way. You can only go so high as an elevator operator, you can only go so high in whatever work you have. No pun intended. You can only go so high in whatever work you have, if it's cleaning or something of that nature. And now we have these new programs.

COMMISSIONER RANKIN. You told me what you are doing and what you have done. You said more can be done. What—can you explain—

MR. KUNZIG. We are going further in that whole direction, more and more.

MR. TRIMMER. One of the things—

MR. KUNZIG. Just a minute.

Let me mention minority business task force. I have been placed in charge by the President of a minority business task force to use procurement to aid minority business enterprise—this is another thing, and I have to be honest about it, which is hardly ever publicized, and I want to state that. The releases go out, we tell everybody, all the time everything we have done, but do you read it in the newspapers, gentlemen? You never read it in the newspapers. I have knocked my brains out to try and get the public to know these things, because I think it's important—very important—for the true picture of what's happening to get out; and the true picture of what's happening in the Nixon Administration with regard to blacks, with regard to minorities, and all minorities, is not getting out.

We started in 1969 with \$36,000 worth of contracts let to minority businesses, so that that man with a Government contract can get started or go further in a small business. It comes under the Small Business Act that legally permits us to do this, because it's preferential treatment. These people are getting contracts not by bidding.

In FY 1971, which has a few weeks to go, we have let in GSA alone 169 contracts at \$9.3 million, but in the whole Government as of today, right now today, it's 452 contracts at \$47 million, and by July 1 we will hit \$60 million worth of contracts awarded specially to minority entrepreneurs to let these businessmen have an opportunity to get a share of the action, as is said, and to be part of the business picture. They can't get it forever, they have to get on their own and keep moving, but that is what is going on, and we will be doing more and more of this kind of thing.

We have had 48 seminars throughout the country for minorities, blacks, Mexican Americans, particularly Spanish speaking people, all over the country in different cities because our biggest problem was these people didn't know about this program. We couldn't get the information to them. You would send out things to blacks in the community, you put it in black newspapers, do everything you could, but we couldn't get it out, so we invited all sorts of leaders, black leaders, and other people to seminars, all minority people. They came to these seminars and we also used our business service centers in the 12 largest cities in the country to distribute information about the program.

We have now by name and number of the players, 12,000 different people that have been counseled as to how they can get into Government contracts. These things could be expanded and are being expanded everyday, Dr. Rankin. That's what we are trying to do, sir.

COMMISSIONER RANKIN. Thank you.

CHAIRMAN HESBURGH. I would like to ask Vice Chairman Horn if he has any questions.

VICE CHAIRMAN HORN. Yes, I have a few, Mr. Chairman.

Number 1, on page 2 of your statement you refer to California State College. I assume that's in Pennsylvania; isn't that correct?

MR. KUNZIG. Coming from California, Mr. Vice Chairman, I can see why you say that.

I spoke at California State College and came out there in Los Angeles and not only that, sir, it was the day of the earthquake. You greeted me with an earthquake when I got there.

VICE CHAIRMAN HORN. California State College, Los Angeles we'll amend that.

MR. KUNZIG. That's right.

VICE CHAIRMAN HORN. Let me ask you now, to what extent was GSA consulted in the preparation of the President's housing message? Did you have an input in this, and what was the involvement?

MR. TRIMMER. Yes, we were asked to furnish material insofar as the Executive order was concerned, since we were the sponsors of that Executive order originally. And also areas, frankly, within which this Commission, for example, might have interest. Other areas pertaining basically to housing in which GSA was involved.

VICE CHAIRMAN HORN. There is a Civil Rights Subcommittee of the Domestic Policy Council. Are you on that, Mr. Kunzig as a member?

MR. KUNZIG. No, sir.

VICE CHAIRMAN HORN. I'm trying to get a handle on the coordinated mechanism at both the Washington level and the field level to try and get some of these policies coordinated. I would think similarly as I have commented with the Veterans Administration that really since your Agency has such a tremendous impact on equal opportunity, jobs, housing, facilities, so forth — well, I don't want to tell the President how to reorganize the White House, I think this certainly would be a useful thing to work on.

MR. KUNZIG. They have called me over frequently, sir, on this general subject as a consultant. I don't believe I am a member of that particular committee.

VICE CHAIRMAN HORN. Now, let me ask you, in your release of Monday, June 14, 1971, with reference to the execution of an agreement with HUD, in Point 4, it says: "In the event GSA determines the Federal facility or leased space is to be located in an area where HUD has found the availability of low- and moderate-income housing on a nondiscriminatory basis to be inadequate, GSA will provide HUD with a written explanation of the reasons for the selection of that location."

Now, as background before I put the question to you that's related to that paragraph, I note as I read Mr. Garment's statement the day the President's housing message was delivered, that HUD is to be the lead agency when we are talking about housing, as such. And I note Attorney General Mitchell said this on pages 11 and 34 of his Monday press conference. And then I see this. And I'm trying to get at who decides when, say, HUD, the so-called lead agency, according to the President's message, is operating in this area and yet GSA is saying: "Well, we disagree with HUD, and all we have to do is really furnish you our written reasons."

Would that sort of matter go to the White House for final resolution

since you both report to the President directly?

MR. KUNZIG. Well, you see, Dr. Horn, on the problem of where a building goes, the responsibility for placing a building, is in GSA and, therefore, results in ending up with me making the decision. For example, if a building had to be in a certain place, let's say for some reason the CIA had to have a building in a certain place and it had to be there for very good and obvious reasons — and the Agency said that they cannot function anyplace else, then if the building is necessary and if Congress has passed money, the building must be put there. We can't say that we will not give them the building because we are a service organization.

We would go through all the different procedures we have outlined. I won't say them again. And if HUD came back and said that it does not agree that the proper availability of housing exists at this particular place, we would probably have to go ahead and put the building there and work like mad on bus arrangements and everything else.

VICE CHAIRMAN HORN. Well, I would assume if the Secretary of HUD wanted to insist the matter he could force the matter to the White House level?

MR. KUNZIG. Yes, we would all be called to a discussion at the White House, yes.

VICE CHAIRMAN HORN. Now, at the regional level, do you have plans for close coordination of your work with HUD in terms of the effect of both the location of Federal buildings and housing at the regional level? What sort of working relationship do you find at the regional level?

MR. SAMPSON. HUD recently decentralized throughout the country and they have regional directors. Our regional directors work directly with their regional directors.

VICE CHAIRMAN HORN. So there are some regular meetings or is this ad hoc?

MR. SAMPSON. No, there are regular meetings. An organization has been formed at the regional level called the Regional Council, which consists of the socioeconomic agencies, and GSA participates with them in their monthly meetings.

VICE CHAIRMAN HORN. Mr. Kunzig, you mentioned that low bid problem. Are you required under the law to take the lowest bid or under what exceptions can you make to waive that?

MR. KUNZIG. Well, I am not totally required to take the low bid, because the low bidder may be somebody as we had just recently in a construction company that has one man and a girl and a typewriter, and if we give him the low bid it may be a totally phony bid. It has to be the lowest responsible bidder and that's the key word.

VICE CHAIRMAN HORN. In other words, the word, "responsible". Can you define that in terms of including such things as affirmative action, fair housing, certain considerations that this Commission is concerned with?

MR. KUNZIG. Mr. Barth, our Deputy General Counsel.

MR. BARTH. Let me differentiate for a moment between when we

go out for leased space and what bids we can accept as opposed to when we go out on a construction contract and what bids we can accept.

Under our invitations for leased space we have very, very broad authority in considering which one we are going to accept based upon all of the factors that are in the Executive order. In other words, on those, price is only one factor which we have to consider. We consider the housing, the location, the other socioeconomic factors, and make then our judgment as to which one of those we would want to accept.

Let's set that on one side for a moment and go to a construction contract, where basically we are bound to a large extent by the procurement regulations, and are required to make the award to the lowest responsive, responsible bidder. But in the area of responsibility, of course, you can consider the affirmative action program which the bidder has to file with you prior to the award, under the contract compliance procedures.

Now, that was our Wilmington situation, where we failed to get what we considered to be an acceptable affirmative action program, and announced that if we didn't get it, we were going to go to the next bidder, and then we got it.

VICE CHAIRMAN HORN. In other words, in terms of your discretionary authority you can really assure that contractors are hiring a sufficient number of minority individuals in their employment groups?

MR. BARTH. We have a large amount of flexibility in that area, sir.

VICE CHAIRMAN HORN. Just to pick up one recent answer of yours, Mr. Kunzig, you mentioned the building about CIA. I notice on pages 25 and 26 of your Monday press conference you state that the location of CIA does not come under GSA. Has that changed between Monday and Wednesday?

MR. KUNZIG. No, it hasn't changed between Monday and Wednesday. We do build, and I must straighten out that statement of Monday, we do build the regular office space for many of these Agencies, for example, the Atomic Energy Commission, but we don't handle their special purpose buildings.

VICE CHAIRMAN HORN. In other words, you don't have control over the site selection of certain Government activities?

MR. KUNZIG. Particularly NASA, Atomic Energy.

VICE CHAIRMAN HORN. Is that set out in the law or in an Executive order?

MR. KUNZIG. It's in their laws, I believe.

MR. BARTH. Basically we get our authority from three areas. We get it from the Public Buildings Act of 1959, we get it from the Federal Property Administrative Services Act of 1949, and we get it from Reorganization Plan No. 18 of 1950. Those are the three basic authorities for us in the acquisition of Federal space, owned and leased, and all of those contain certain basic exceptions which leave to the Agency the authority for basically special purpose space.

VICE CHAIRMAN HORN. I'd like Counsel to furnish the Commission for insertion in the record at this point a list of those Federal Agencies

or activities for which you do not have authority in this area. Could you do that for us just so we have a complete record?

MR. BARTH. A list of Agencies? I would probably furnish it to you as a list of our authorities and to the extent possible, give you a list of—

MR. KUNZIG. I think we ought to make it clear that we might not be listing all of them because there might be somebody else come along with exceptions.

(The information requested appears on p. 1029.)

VICE CHAIRMAN HORN. One last question.

I notice the State of New York is constructing now a major State building right in the middle of the ghetto, so called, Harlem. I wonder, are there any plans on the books for, say, putting a major Federal building right in the middle of Georgia Avenue, somewhere, halfway between Constitution Avenue and the Maryland border?

MR. KUNZIG. We have at this very moment, and I would rather not go into names, numbers, or players, because it is still confidential, we have two buildings under plan which would be black built buildings with black financing and black people, and they would be Government, and predominantly in black areas of the city, yes, sir.

VICE CHAIRMAN HORN. Thank you.

I would like to say, in conclusion, Mr. Chairman, I have followed Mr. Kunzig's work on Capitol Hill, GSA and on Capitol Hill he worked for Senator Scott, co-author of our legislation extending this Commission in 1964, and he has had a deep devotion to doing something about civil rights both here and in Pennsylvania States Rights under Governor Scranton. I would like to commend you for what you have done under GSA, in trying to turn a bureaucracy around.

CHAIRMAN HESBURGH. I think we all associate ourselves with that statement.

MR. KUNZIG. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. I will yield to Mrs. Freeman.

COMMISSIONER FREEMAN. Mr. Kunzig, you were referring to the move of the Navy Department and we realize that has already happened, but you have said that about half of the employees already lived in Virginia.

I think that we would probably guess right if we said that among the half that do not already live there, that they might be low grades, and that a significant number of them would be members of a minority group.

My question to you is with respect to remedying the effects of past discrimination, the extent to which officials of GSA or of the Navy Department would be at this point sitting down with the local officials to try to open up the areas, and also whether those Agencies have an ongoing housing committee to make housing available if the employee chooses to move to the community.

MR. KUNZIG. Let me say first, and then I will ask Mr. Sampson to explain what we did in this very particular move, because I don't think it had ever been done before. In checking this over, there may be,

as you say, more lower-income people who live in the District and now have to go across the bridge, but there were considerable lower-income people who had been paying that extra fare to come across the bridge the other way before. There were others and it gets into a wash, probably a little bit more from this side. Would you tell just what we have done in this area?

MR. SAMPSON. One of the things we did, we set up a special task force to take care of people that were involved in that move, because we knew it was a very difficult move. We had a special housing counseling service that was on an ongoing basis throughout the whole year when the move was made to try to help people get located across the river.

That took care of the situation as far as the move was concerned, and we helped all the people we possibly could.

Now, in addition to this, and I think this is perhaps most important, and this is where we got into a situation where we are trying to use our leverage, to quote as someone spoke here, to encourage better conditions.

We recently went out for bid in Alexandria where they are doing something about housing, for 500,000 square feet of space, and we restricted the area to Alexandria.

MR. KUNZIG. The reason we restricted it to Alexandria is because they had the low-income housing and other areas didn't have them.

MR. SAMPSON. And when industry came to us, and other people, to open up the bidding to Arlington County, we said, when you put housing in, we will open it ups.

COMMISSIONER FREEMAN. Thank you.

My next question is with respect to your point, Mr. Kunzig, about the increase in minority people in the upper grades.

I would like to know if GSA could submit to this Commission, the total number of employees GS-8, 9, 10 and up, and the breakdown by race.

MR. KUNZIG. I would be glad to do that.

COMMISSIONER FREEMAN. Thank you.

(This information appears on p. 1127.)

CHAIRMAN HESBURGH. Mr. Kunzig, I think also for the record, it is good to point out that you are doing something, hopefully next year, with the collaboration of the Congress, that we have been pushing for a long time and that is to go from 52 persons to 121 persons in your contract compliance staff at GSA, doubling—a little more than doubling—the budget for that area, from \$713,000 to \$1,648,000.

We have had a feeling all along, and this is—part of what gets into the rhetoric on the slowness of bureaucracy to move towards these high goals is that you simply—we can't do the job that has to be done with the numbers of people we have, and the quality of people we have, and we are delighted that Mr. Mitchell's job has not only been upgraded, but there are also more people in there working, and that is a very good move.

I wanted to ask just one quick question—that is, do you find any motion in the building trades towards curing of the problem that seems to be endemic to them all across the country, that they have so few

minority workers?

MR. KUNZIG. It is terribly difficult.

As Dr. Horn knows, I come from Philadelphia, and have been very active and interested in the Philadelphia Plan since its inception. We tried to force it up there, when I was with the State government, and we have been forcing it now.

For example, what a lot of people don't realize is that no large Federal Government building really has gone up in the last couple of years in Philadelphia except a huge—now going up—new Post Office Court house at 6th and Market on Independence Square.

That is held up at the moment with strikes, but it will move ahead. That is a huge building, costing \$77 million.

In the contracts involved with that building, everyone of them, the whole Philadelphia Plan operation is deep in it. It costs more, and we know very well that it is going to cost more, because the cost is going into the training of people who are desperately needed.

We need people in the construction industry, and to keep them out, I think, is unconscionable, and I have always made that point clear. And if something isn't continually done on this, and if we don't keep after it, it is a farce.

Now we are doing the best we can. It is a union problem, but these must be opened up to allow blacks and other minorities to work in these fields. They want to work in these fields. We are desperately short in these fields, and the contracts are going up in the astronomical figures, which aids inflation. So everything points to the fact that we must open up, so that these people can work.

CHAIRMAN HESBURGH. Do you have some forward motion in the contractors here in Washington? I know you have a big building going up on Pennsylvania Avenue right now.

MR. SAMPSON. There is some movement in Washington, and there is some movement in other spots throughout the country, but it is very spotty, Mr. Chairman. But Washington is starting to soften somewhat.

MR. KUNZIG. In fairness, we have to say that contracts which were made prior to the institution of such plans as Philadelphia Plan, Washington Plan, whatever city it may be, would not have those clauses.

CHAIRMAN HESBURGH. I take it you apply that plan wherever you build in the country now?

MR. SAMPSON. It is applied on a mandatory basis in certain cities. Now we have three: Philadelphia, Washington, San Francisco.

We have voluntary plans that have been approved in some 12 cities, and we apply it there.

MR. BARTH. Excuse me. In addition to that—

CHAIRMAN HESBURGH. What keeps it from being applied nationwide?

MR. BARTH. In addition to that, where there is no imposed plan, and where there is no so-called hometown plan, where a contract is, I think over \$50,000 or \$100,000, we require an affirmative action plan of

the contractor prior to award.

CHAIRMAN HESBURGH. I see.

MR. SAMPSON. On all contracts.

CHAIRMAN HESBURGH. Thank you. Mr. Staff Director?

MR. GLICKSTEIN. We have been talking a great deal about programs with respect to new facilities, location of new facilities, leasing new space. But the President, in his message the other day, also spoke about correcting the effects of past discrimination.

Do you have any plans or action areas where there are already existing facilities owned or leased, and where there is either not adequate low- or moderate-income housing available, or where there are discriminatory housing practices?

MR. SAMPSON. In that particular case, I think our best opportunity to do some good is the Alexandria example, where we are saying that we are going to try to correct some of the areas where they don't have housing, before we locate there.

It is not easy for us to accomplish this, however, because when you are locating space, you are somewhat at the mercy of the market.

What we have tried to do in Washington, for example, is to convince developers to go down into those areas where they can do the most good. When we say on a persuasion basis, if you build there, we are likely to lease there, but we have to look at the marketplace in order to have any effect.

MR. KUNZIG. And we can't, of course, promise in advance. That is impossible to do.

MR. TRIMMER. Also, Mr. Glickstein, in terms of correcting a past situation, when you look at the factor of leverage, our leverage exists primarily when we are going into a situation.

Once we are already located there, in terms of the practical effect that we can have, I think it is limited. I think it is limited to the kind of thing that Mr. Sampson suggests, working with the community and suggesting that if you want more Federal facilities, you had better start moving in this direction.

MR. GLICKSTEIN. There is no leverage in threatening to move out?

MR. TRIMMER. Not if you have a 20-year lease.

MR. GLICKSTEIN. Assuming the lease was signed before the 1969 Act was passed, perhaps requirements of that act could be read into the lease, and if it wasn't being conformed with, you'd have a basis of breaking the lease.

MR. SAMPSON. We have leases now in certain parts of the country which are at the end of the 20 years, but we interpret this as going into new space, and we can use that leverage.

MR. GLICKSTEIN. Thank you.

CHAIRMAN HESBURGH. Thank you, gentlemen.

And I want to thank Mr. Powell and the staff attorney, and the work which has gone into this.

We appreciate your enthusiasm, Mr. Kunzig, and we wish you the

best in moving forward to do what you are doing now, and more. Thank you very much.

WEDNESDAY AFTERNOON SESSION

JUNE 16, 1971

CHAIRMAN HESBURGH. Ladies and gentlemen, may we come to order.

Mr. Secretary, I would appreciate it if you and your associates would stand and be sworn in.

(Whereupon, Secretary John A. Volpe, Mr. Richard F. Lally, and Mr. F. C. Turner, were sworn by the Chairman, and testified as follows:)

**TESTIMONY OF THE HONORABLE JOHN A. VOLPE, SECRETARY,
DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY MR. F. C.
TURNER, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION,
AND MR. RICHARD F. LALLY, DIRECTOR OF CIVIL RIGHTS,
DEPARTMENT OF TRANSPORTATION, WASHINGTON, D.C.**

CHAIRMAN HESBURGH. Thank you Mr. Secretary. Would you introduce the gentlemen with you, Mr. Secretary, please?

SECRETARY VOLPE. The gentleman on my right is Frank Turner, the Federal Highway Administrator, a job which I had the privilege of holding way back in '56, and on my left is Dick Lally, the departmental Director of Civil Rights.

CHAIRMAN HESBURGH. Mr. Secretary, I believe you would be willing to summarize your statement. I think right now I will introduce your full statement into the record. If you would be so good as to summarize it, we would appreciate it very much.

(Whereupon, the document referred to was marked Exhibit No. 40 and received in evidence.)

SECRETARY VOLPE. Mr. Chairman, members of the Commission, you all have my prepared statement which is being inserted into the record, as Father Hesburgh just indicated, and with your kind permission, I would just like to take a few moments for brief remarks emphasizing some of the points in that statement, with perhaps an additional comment or two.

I would first like to commend the Commission wholeheartedly for calling these hearings. I could not agree more that fair housing without regard to race, color, religion, or national origin is a basic right of all people in this Nation.

We are pleased to be here because we feel that mobility also is a basic right and, further, that mobility and fair housing are closely intertwined. One is not much good without the other. Open housing in suburbia must be accompanied by physical access to suburbia, and

this is true of the inner-city as well.

I have emphasized repeatedly that our society can develop employment, housing, job training, health, and education facilities from now to kingdom come, but these opportunities won't be fully effective unless they are linked by an effective, efficient, inexpensive, viable transportation system; transportation that is within the reach of all. That is to say, public transportation is a vital, key factor in shaping the world in which we live.

Public transportation must and, of course, can do much more than simply bring suburbanites into the core city at 9 in the morning, and send them home again at 5 o'clock in the afternoon.

Since 1965, the Federal Government has made some 181 capital improvement grants for mass transit, totalling almost \$1 billion. We have preserved or stabilized bus systems in 45 cities. We have helped purchase 6,500 new buses, over 1,000 rail rapid transit cars, and 860 commuter rail cars. And most of these grants, I might add, have been made in the past 2 or 3 years.

Beyond the service aspect of transportation, we recognize that transportation development is a major factor in residential patterns and community development. The accessibility of effective transportation has a profound effect on community growth and demographic alignment. This is a responsibility that we do not take lightly.

Transportation planning in a Nation of over 200 million people must be related to more than simply getting from point A to point B. Indeed, the law requires that transportation planning be consistent with comprehensive planning.

Transportation must shape and mold the communities in which we live and work. For some time now the Federal Highway Administration has done much more than simply design and construct highways.

In planning for the total transportation picture, the Highway Administration cannot avoid, which it certainly has never wanted to, making certain that we take affirmative action with regard to housing, including replacement housing.

Within the Office of the Secretary, both our policy development and our environment and urban systems people work very closely with the States and communities of this Nation to assure that transportation development has a positive effect on the makeup and development of our cities and towns.

And I would like to emphasize that we have taken significant action in the area of fair housing. In October 1969 we established the policy that any construction projects assisted by our Department, which involved the displacement or relocation of people, would not be approved unless and until adequate replacement housing had been provided; even built, if necessary.

The policy requires that all such housing must be fair housing, available to all persons regardless of race, color, religion, sex, or national origin.

When it is considered that each year approximately 70,000 people are displaced as a result of transportation construction activities, some

50,000 by highway construction alone, the impact of this policy on the housing patterns of the Nation is, of course, readily apparent.

As I noted in my prepared statement, we are definitely considering at this time some type of requirement that applicants for Department of Transportation funds, in metropolitan areas, give us a specific analysis as to whether the proposed project would have a positive impact on any existing patterns of racial concentration in the area involved. Without this analysis, such projects would not be approved. There would be no Federal funds.

This is in line, of course, with President Nixon's recently announced housing policy. We would propose to work very closely with the Department of Housing and Urban Development in this endeavor, inasmuch as they have the lead role in comprehensive planning.

Already, in quite a few instances, major urban highway projects have been scrutinized in detail, to determine the social, environmental, and human impact on the affected communities. In my statement for the record, several instances are detailed where this has been done.

One other point. I know the spirit in our Department is good. Through regular equal employment opportunity meetings, which are not directly related to housing, of course, our field people have been made fully aware of the civil rights commitment at the top level of our organization chart. These people have to stand up at a quarterly meeting, and give us a report of what they have done, what kind of progress they have made during the previous quarter. There is nothing more embarrassing than to stand up and say that you didn't make any progress.

There is no question throughout the Department that we are determined to do what is right. There will be no lagging, no delay, no obstruction of progress. There may be delay in the construction of some projects, I mean highway projects or other projects, but no delay or obstruction so far as carrying out the spirit of the law. We try in every way possible to even be ahead of the law.

We certainly will be glad to answer any questions that you or the members of the Commission may have at this time.

CHAIRMAN HESBURGH. Mr. Secretary, before we begin the official questioning, one point that you may wish to add to that statement.

It seems to me that you took that stance early on, which eliminated a problem that really bothered this Commission in the early days. We were constantly finding people who were dislocated with no provision made for housing because a highway went through and the highway was more important than the human beings that were put out of the house. Did you have any law to back you up on that, or any directive, or how did you come to that position?

SECRETARY VOLPE. Mr. Chairman, I had had, of course, some experience as Commissioner of Public Works in Massachusetts for almost 4 years. I helped to launch the new Interstate Highway Program in 1956-57, and I had seen areas in which, because of the need to seem to get the project going rapidly, people too frequently were out on the street, homeless you might almost say, with the bulldozers practically

at the back door.

The fact is that the Congress had passed, 2 years ago, or a year and a half ago, legislation, the Federal Aid to Highways Act of 1968, which indicated that replacement housing should be provided wherever possible. I determined that it should be possible everywhere. Therefore, I issued a departmental directive that adequate replacement fair housing would be available on every project, not just on those where they thought it would be possible but on every single project. And if there had to be delay, there just had to be delay.

CHAIRMAN HESBURGH. No project would start until this had been assured?

SECRETARY VOLPE. That is correct.

In other words, I did not want anybody thrown in the street, in order to build another street.

CHAIRMAN HESBURGH. Mr. Glickstein, our Staff Director, will do the official questioning. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Secretary, we realize that there are many programs under your jurisdiction, but for the purposes of this hearing we are going to concentrate, in the short time that we have, on the activities of the Federal Highway Administration, and the effect of the Federal Aid Highway Program on racial polarization.

I take it there is no dispute, based on your statement, that the provisions of 808 (d) of the Fair Housing Act that require all Executive Departments and Agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this title; there is no dispute that that is applicable to DoT, and that is a provision of law that you are fully implementing?

SECRETARY VOLPE. Absolutely no question about it.

MR. GLICKSTEIN. In the President's recent housing message, he stated that the Federal Government will encourage communities to provide decent low- and moderate-income housing.

We have heard some conflicting testimony about just to what degree programs administered by HUD involve a great deal of leverage, whether HUD has a lot of leverage, or a little bit of leverage. Do you think that highway funds are sufficiently attractive to suburban communities that they could be used as a carrot to provide such encouragement, the type of encouragement the President spoke about?

SECRETARY VOLPE. I think that a great deal has to do with the nature of the officials in suburbia.

I found, for instance, in my own service as Commissioner of Public Works that generally speaking, the highway department—this is not meant as any criticism of the highway departments, but only as a matter of fact—basically was interested in the design and construction of highways. They were interested in building them constructively, building them as efficiently as possible, and I might add they were considering the environment long before it became fashionable, although some people think that it is only the last 2 years since attention was given to that.

But the fact is, I found that in the relocation field, in order to really get a job done, the relocation ought to be placed in an area where we had that as the major focus, rather than the design and construction of highways. And as a result, I created a division in our department of commerce that would be responsible for the relocation housing. That has worked out very, very well.

Since then, we developed a new department, as a matter of fact, for community affairs, and that division was transferred from the department of commerce to the department of community affairs. In this way we felt that we had done a great deal towards having an agency that was dedicated only to this work, to getting that job done.

I think that we can use some leverage. We will have to work very, very closely with HUD, because they have the lead responsibility for 801, as you know. But on the other hand, there are cases such as the Charleston case, where certain complaints were received that the highway would cause the breakup of the community in that area. I did not just sit back and take the word of those who indicated that that was not true. We actually sent one of our most trusted people down there. He spent almost 3 or 4 weeks right there in the Charleston area, got the facts, brought them back to us.

There was slight deviation from what we had first received, and as a result of the information we had, as a result of consultation in the community, we were able to make some modifications in the plans and provide for the development of replacement housing, working with HUD, that will give these folks a chance to live where they want to live.

Most of them, as a matter of fact, wanted to stay in that immediate area, provided that the highway did not downgrade the community. That is one of our major problems, to try to be sure that as we build these highways—and we are so building them, I believe—they become compatible with the environment, and not detrimental to the environment.

MR. GLICKSTEIN. Well, one of the things that the President addressed himself to in his message was encouraging suburban communities to make provision for low- and moderate-income housing. I would like to know whether you think that the highway program can be used to encourage suburban communities to make provision for low- and moderate-income housing?

To be specific, if a highway is planned to go through a community that does not have adequate low- and moderate-income housing, that does not have a fair housing law, do you think that the highway program could be used to say to this community: "Until you have a plan to provide adequate low- and moderate-income housing, until you have a fair housing law, this highway is not going to be built."?

SECRETARY VOLPE. I don't think that we have the authority at the present time to do that.

I am willing to stretch, when I have something to hang my hat on. But at the present time, the only peg we would have would be if we felt that in any way, that project was being built so discrimination was going to be brought about, and that a particular location was selected

because, oh, well, there are only blacks or little Italian boys that live over there. Certainly then we would have a right and a moral obligation. And, in accordance with the law, we would be able, I think, to undertake the use of this weapon.

But I don't think we could use it to force low- and moderate-income housing unless, as I say, there was definitely provable discrimination.

MR. GLICKSTEIN. Well, the President, in his message, in talking about housing programs, said that to qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing.

Wouldn't it be appropriate before a community qualified for a highway, that it be part of a plan to provide for low- and moderate-income housing?

SECRETARY VOLPE. I think that there are ways in which we can encourage—I think there are ways in which, as we deal—and of course you have to remember, that the Federal Government does not construct these highways. It is the State highway departments that construct these highways. They submit to our divisional offices, one in each State, a request for approval to build a given project in a given location.

And our divisional offices have been given the approval authority. I started this decentralization back in 1956, when I found that 85 percent of the requests for approval were coming into Washington. If the volume of requests was continued, we would need two or three Washington D.C.s to handle the problem.

And so we gave the authority to our divisional offices. I told them either they ought to fire all of the folks at the division offices, if they weren't competent to make the decisions, or that if they were competent, then the decisions ought to be made at that level.

However, the divisional people had to be made aware of my interest in, and my direct concern with the fact that they had to approve these projects consistent with the law, whether it be environment, in civil rights, or whatever it might be. That is the way most of our work has been handled, although the actual taking of bids, the awarding of contracts, is done by the States.

I think it would be persuasion only, rather than law now on the books that we could use.

MR. GLICKSTEIN. You say the State build the highways, but at least in some of the highway programs, the Federal Government pays about 90 percent of it—

SECRETARY VOLPE. On the Interstate system, the Federal Government pays 90 percent of the cost, and on the other Federal-aid systems, it pays 50 cents on the dollar.

MR. GLICKSTEIN. The statement contained on page 7 of your statement, which you repeated orally, that you are considering criteria to determine whether a specific project will have a positive impact on existing patterns of racial concentration in the area involved: Wouldn't that suggest that a positive impact might necessitate the construction

of low- and moderate-income housing in some areas?

SECRETARY VOLPE. What I am trying to say there, Mr. Glickstein, is that if in the analysis of this project, we can determine that a more positive impact can be made through a modification of the route, or if in some other way that project can be developed so that it will have a positive impact, then certainly, we ought to implement it. And we shall.

We were waiting for the President's statement in this area, in order to be able to develop a policy of our own.

We weren't just sitting waiting for the statement. We had been working on what we might develop on our own. The President's statement now permits us to finalize our own orders, and we are very hopeful that it will not be very long before we will have our own departmental directive published.

MR. GLICKSTEIN. Well, let's assume that the analysis that you describe on page 7 shows that in the suburban area there is currently no low-and moderate-income housing, and that the suburban communities do not have a fair housing law; that minority people are going to be displaced by the portion of the highway that goes through the city, and will have to be relocated within the city because of the absence of low-and moderate-income housing in the suburbs, and the absence of a fair housing law.

That sort of a project would not have a positive impact on existing patterns of racial concentration. It would just continue them.

SECRETARY VOLPE. That is correct. And we, under the terms of what we are already doing, would insist upon their building housing, which is fair housing, which is clean, sanitary housing, before we would allow the project to be built.

That is as clear as I can make it.

In other words, they would not be able—we would not give permission for them to proceed.

MR. GLICKSTEIN. That would be for the people that were displaced in the city.

SECRETARY VOLPE. That is correct.

MR. GLICKSTEIN. But if there were no low-and moderate-income housing in the suburban communities, and if there were no fair housing law in the suburban communities, it is likely that this housing that you are speaking about would be built in the city and that the racial concentration there would be perpetuated.

SECRETARY VOLPE. Well, I would only say this. We never have enough money to do all the things we want to do. We do have a choice, usually, in accepting the Interstate system where it is a designated system. We do have a choice of approving certain projects beyond and above other projects. This selective approval is the kind of a tool that we can use where, as the President's message states, that we can choose those projects that will have a more positive impact.

MR. GLICKSTEIN. Well, then, you are planning a sort of a system of priorities, also, where you would make some choices, and one of the factors that you would consider would be the positive impact on existing patterns of racial concentration?

SECRETARY VOLPE. Yes, sir.

MR. GLICKSTEIN. You spoke about your relocation regulations, which Father Hesburgh appropriately complimented you for.

Do you currently have any requirements that some of the dwellings be located outside of areas of minority concentration?

SECRETARY VOLPE. There is no requirement *per se*, for that.

There are some areas where as a result of the takings, we can now, under the legislation provided by the Congress, buy additional land on which to build this housing. Generally speaking, such housing is located within the right of way that we acquire. Namely, instead of taking right of way 150 feet wide, we might take a plot 250 feet wide, in order to build the housing that is required. On the other hand, there are some cases where that cannot be done, and we would, in those cases, certainly acquire the land elsewhere.

We have found, certainly during the period I have been here in Washington and even in my experience as Commissioner that generally speaking, people want to live, want to stay, in the neighborhood they have lived in, and want to stay where their grocery store is or their church is, or whatever it is that they particularly would like to stay near.

We have not found too many cases where the people say: "Look, I want to go to some other part of the community to live." Usually it has been the other way around.

In Charleston, it was exactly that. They said: "We want you to be sure that enough space is taken—enough space is reserved in the Urban Renewal project that HUD is planning, in order to provide the housing to take care of those people who will be displaced by the road project."

MR. GLICKSTEIN. Well, I think that HUD had somewhat a similar explanation for the fact that their low-and moderate-income housing built in the suburbs was predominantly white, and their low-and moderate-income housing in the central cities was predominantly black.

And apparently, the other day, affirmative marketing criteria were issued by HUD to insure that it be made clear to people that there were options, it wasn't just necessary for them to relocate near where they live; but that there was housing in the suburbs that they could move to.

And what I am suggesting is that maybe there should be options created for people that are dislocated in the city, so that they might have an option to move outside of areas of racial concentrations.

SECRETARY VOLPE. That would certainly be a part of the impact analysis that I talked of, that we would receive. If we felt at all that certain things were being done in order to avoid a positive impact, certainly that would be a part of establishing a judgment on that project.

MR. GLICKSTEIN. So then your analysis that you have discussed with us might also apply to your relocation practices and—

SECRETARY VOLPE. That is correct, sir.

MR. GLICKSTEIN. Can you give us any instance, an example of some instance where you might decide not to provide Federal highway funds on the grounds that the proposed highway would perpetuate racial polarization?

SECRETARY VOLPE. I would rather ask Mr. Turner to reply to that. You know, of course, that I have only seven administrations to try to keep track of—railroads and aviation and a few others. I can't keep track of all of them. Frank, do you have any particular project in mind—you are talking about a project that is coming up, or one that has been built—

MR. GLICKSTEIN. Or a hypothetical one, or one that has been built, or that you are now sorry that you built.

MR. TURNER. I don't believe that I can think of a particular project that would meet the specifications that you have set out. All of our projects, we believe, contribute generally to transportation needs, open to all users, regardless of location, economic means, race, color, creed, religion, or anything else.

SECRETARY VOLPE. How about the housing, are there any projects in which—even a hypothetical one, as Mr. Glickstein said, that you think of where we might apply the kind of analysis that we have talked about, that would enable us to deny funds if we felt that this was required in order to permit the fair and decent housing that we intend for them to provide.

MR. TURNER. I think that it might only be reached through the provision that governs the relocation of people displaced from a highway, in which the requirement is that before the project can be approved, a State must submit to us a relocation plan which we approve. This must include provision for fair housing.

This is a condition precedent to the approval of a project. Unless that condition is met, then the project necessarily cannot be approved by us. This would be a standard provision that would govern all projects in every State.

MR. GLICKSTEIN. While we are on the question of submitting plans, as my last question I would like to ask about the public hearings that are held in connection with the proposed highways.

The statute provides that at those hearings, the economic and social effects of the location of the highway be considered, and in one of your policy statements, PPM-20-8, you list 23 factors that would be considered.

And none of those factors relate to racial concentration. I wonder if now that the President has stated his policy so clearly, has indicated that we have to do something about racial polarization, it would not be wise to amend this to make it clear that racial polarization, minority concentration be something that be considered at the public hearings?

SECRETARY VOLPE. Just as soon as we have completed the finalizing of the review we are making right now, that certainly would be one of the other factors we would consider. If that is not, that will be Number 24.

MR. GLICKSTEIN. Twenty-four—maybe it should be Number 1.

SECRETARY VOLPE. Well that is all right. I was just going to add, that would not mean that it is last in its consideration of values. Certainly, I think of the situation where you could build a road in such a way as to actually polarize, so that you have separated the black from

the white community. Then you are really polarizing.

Those are the things that certainly we do look at. I think in the context of what the President has said, and what we have just been talking about, we will be in a position to do a better job in this field.

MR. GLICKSTEIN. I think in going beyond just polarization in a city, within a particular community, what is particularly important is polarization within the entire metropolitan area.

SECRETARY VOLPE. As we develop—something which we have been working at very, very hard—I have had both our policy people as well as our Assistant Secretary for Environment and Urban Systems working on the process, the total process of planning. There is no point in doing transportation planning in a vacuum.

Transportation should not be built just because we have got more trucks, therefore we build another highway; or we have more automobiles, we just build another highway; or we have something else, and we build something else.

Transportation, as I have tried to get across to our people, and think I have convinced them, is for the purpose of serving people and the goods that people need. This has not always been done. The planning process was such that you had overlapping of jurisdictions. You have a local jurisdiction, in some cases you have a county jurisdiction, in some cases you have had a regional jurisdiction and you have had a State jurisdiction. Then of course, you have your Federal Agencies, some with regional offices, some without, and then the operation and the apparatus here in Washington.

Since 1962 the Federal Highway Administration, after Congress passed legislation requiring comprehensive planning has been working. It gave a 3-year lead time, if I remember correctly in '65, right Frank?

MR. TURNER. Yes.

SECRETARY VOLPE. In '65 that statute became operative. Since that time they cannot approve a project unless it is consistent with comprehensive planning developed for that area.

Now comprehensive planning, unfortunately, has not really been what I call comprehensive planning. When I think in terms of comprehensive planning, I feel that I am not thinking only in terms of the fact that, well, there is a railroad here, or there is a transit line here, or something else, all to do with transportation.

I am thinking in terms of what is going to be built, what are going to be the needs of the people and that community 5 years, 10 years, 15 years down the line.

Where is the hospital going to be built?

Where are the additional schools going to be built?

Where are the universities going to be built, and so forth?

With the answers to such questions we can plan transportation to serve those needs, rather than just build facilities for the purpose of merely moving people through a community.

MR. GLICKSTEIN. Thank you, sir.

CHAIRMAN HESBURGH. Mr. Secretary, in our hearings both in Baltimore and in St. Louis, we found that one of the real present anguishes

in upward mobility of the black community particularly, is that as whites have moved to the suburbs, businesses have tended to go to the suburbs with them, and while the blacks are concentrated more and more in the inner-city, they are cut off from access to jobs.

We found many people who have a terrible time getting to work, and as a result, they could not take jobs where they were available, because they could not get a house there.

But I would like to get at it from a different point of view. We are hoping to correct that through a different approach to the housing market, open housing, fair housing, and all the rest.

But for the moment—and I would suspect there are always going to be people in the central cities, some people living there—is there any forward planning that you can tell us about for rapid transit to get poor people to jobs without breaking their backs with high fares, or changing buses every 5 minutes, or taking all day to do it?

SECRETARY VOLPE. Father, I am glad you asked that question, because this is one of the real serious problems, not only in the two communities you mentioned, but in many, many communities across the Nation.

The fact is that we found one city, and I won't name it, where the same bus routes were being used that had been used for the last 30 years, and yet there had been enormous changes in that community in the last 30 years.

We gave that city a grant with which to develop, through consulting firms, a better routing system that would more adequately serve the needs of the people. Jobs had moved, the factory had moved from the city to suburbia. Yet, there was no way to get there.

Roxbury, which I am sure you are familiar with, Father, I am sure other members of the Commission—

CHAIRMAN HESBURGH. Yes, we had a hearing up there too.

SECRETARY VOLPE. Yes, I am sure you have.

Because so many of the jobs had gone out to what we like to call our Golden Semi-Circle up there in Massachusetts—I haven't been able to see that Golden Circle for quite a while, and I would like to see it one of these days, and I hope I will—there was no way, unless a person living in Boston or Roxbury wanted to spend 2½ hours, or 3 hours to get to work, to work out there.

And so we, at the State level at that time, and later through a Federal grant, started a bus service from Roxbury to the Route 128 factories or electronic plants, and all of the other types of manufacturing and research plants that were there. And we found that we were able to place a great many young people, especially, as well as middle aged folks like myself—not old folks like myself, but also old folks—by getting them out from Roxbury to Route 128.

I had a survey made. After a 3 or 4 month period, we found that people had gone from positions where they were only earning about \$1.50 an hour, to positions where they were able to earn \$2.50 to \$3 an hour, or more.

Public transportation is one of the biggest jobs we have. It is because

of this that President Nixon, on my recommendation, submitted to the Congress in 1969, for the first time in our Nation, a long-range plan for public transportation.

In the past, starting in 1965, as I indicated in my testimony, they were giving out \$100-\$150 million—I think the last year before I came it was \$175 million per year. But you never knew what the next year was going to bring, or whether or not there would be an appropriation at all for public transportation.

In bus transportation, yes, we can buy a few buses, and so forth. That is primarily the area in which we can serve most of the communities.

But there are about a dozen or 15 communities in our Nation, where rail rapid transit systems of one type or another is the answer, not the type that was built in Boston in 1908 and unfortunately even up until a few years ago, but modern rail rapid transit systems such as the BART system now being built in San Francisco, the Bay Area Rapid Transit System.

This is a system that will be a computerized operation, it will bring people into town from and out of town to suburbia, making several stops, of course, in between. It will be clean service, it will be fast service, it will be safe service.

There are a dozen or 15 cities where we have to implement what is already in place, and beautify the subway stations. We have just given a grant to Philadelphia, for instance. They have eight subway stations. If any of you had been in them, you would not want to go there again. So we have given Philadelphia a grant to clean those subway stations up. We have even done that in Boston, I might add. The fact is, that we can be of assistance by cleaning up these subway stations and by providing new cars—but by primarily providing buses in the majority of the cities. Over 257 bus companies have either gone out of business or just disappeared, or have been taken over by a public agency or a public authority. Even in such takeover cases, they haven't been able to balance their books.

So, this is where we are helping with the passage—on a bipartisan basis, I might add—by very, very substantial margins in the Congress last year, The Public Transportation Systems Act of 1970. This act is going to help us to do the kind of a job we feel is absolutely essential.

The President said in his message that this necessary transportation was a public responsibility, just as much as public education or public welfare, or public health.

In other words, if you deny a person the opportunity to get to a job, in essence you are denying him one of his rights. This right, therefore, is the reason for this public transportation effort and the reason why the Federal Government should spend, and is spending a great deal of money. In the past 2 years, we will have spent approximately a billion dollars, contrasted to the spending of approximately the same amount over the first 5 years, or 4 years of the program.

In the next 2 or 3 years, we will be getting up to a billion dollars a year, and I think as the needs increase we will be seeing even more than

that spent annually in this area. I think this program is so vital, not only for the poor who need it, not only for the handicapped who need it, but also for relief of some of the congestion in the inner-city itself, where a good many jobs are lost from that cause. Congestion results not only from the cars themselves, but also from the fumes they create. We also are working on that problem and hope that by 1975, or sooner, we will have cars that will emit a great deal less pollution than they do today.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. Mr. Secretary, you referred earlier in your remarks to HUD, as a lead agency, or the lead agency, when we talk about the President's statement on June 11th on Federal policies relative to equal housing opportunity. That was also the phrase used by Mr. Garment in the background. It has been used by Attorney General Mitchell in referring to that statement.

Just what does that phrase, "lead agency" mean to your Department?

Does this mean that HUD would have authority over certain policies of your Department, when it gets into the field of trying to prevent discrimination in housing against minorities?

SECRETARY VOLPE. They have the lead role in housing, just like we have the lead role in transportation.

There are many cases where we are checking with HUD, we are checking with the Department of Interior on environmental matters, and so forth. But we are the lead Agency in transportation. They are the lead Agency in housing.

We work with them. Although we will ordinarily take their advice, I would not hesitate, if I felt that something was important for me to do that I should be doing, not to accept advice that might be given from that quarter. However, I am very sure of George Romney's fine personal convictions in this area.

VICE CHAIRMAN HORN. What I am trying to get at is the apparatus to sort of coordinate and resolve any differences of opinion that might arise between you and the Department of Housing and Urban Development.

Does this mean that this sort of a matter, if the two Departments were in conflict, would go to the White House?

Who would resolve the two of you on something like this?

Suppose the Secretary of HUD felt very strongly that running an Interstate freeway, or just a Federal grant, Federal aid highway grant, or mass transit project through an area of one city was really not promoting dissemination of low-income medium-income housing opportunities into the suburbs, and not really getting the housing and the people where the jobs were. How do we get a handle on this and resolve differences between your two Agencies?

SECRETARY VOLPE. Well, very, very fortunately, because of the relationship George Romney and myself have had over the course of the last decade, we have worked out our mutual problems.

Not too frequently have the two Secretaries had to sit down. I have

people in our Department who have sat down with either the HUD Under Secretary, or with Sam Jackson, and we have resolved any problems that might have developed.

In other words, when we submit to them, which we do, an environmental impact statement, there are times when they don't concur completely with that environmental impact statement.

We then work together to eliminate any areas of disagreement. Sometimes they may give a little, sometimes we give a little, but in the final analysis, we have not had to go to any higher authority to get the decision made.

I am sure the same thing would apply here.

VICE CHAIRMAN HORN. You mentioned that your experience as former head of the Public Works Program, I think in Massachusetts, and also at the national level caused you to believe that we ought to have more decentralization to the regional level to make a lot of these decisions, so they all don't come to Washington, in this case.

What sort of apparatus do you have for coordination at the local level with the agencies like HUD, and how do you as Secretary—since I think one of the toughest jobs in the world is to come into this city with a new Administration and have to try and get some responsiveness out of the bureaucracy you inherit, who has been here before you and will be here after you, and all the alliances they have with Congress—how do you get a handle on decisions like this that are going on at the regional level, so that you can monitor them and see that your strong commitment in this area is carried out.

SECRETARY VOLPE. Well, let me say, Mr. Horn, that probably is one of the greatest dilemmas that any executive faces when he takes on an assignment, whether it be at the Federal establishment, or at the State level where I first undertook my public service in 1953.

It is extremely difficult, and you just can't expect to put the head of a Department or Secretary or Commissioner, maybe with four or five or half a dozen other people and expect that their ideas permeate all the way down through the ranks the day after you get there; that your philosophy, your method of doing business would permeate all the way down through the ranks.

On the other hand, the goal can be reached and by a willingness to work, which this job and any other public service job requires, and an ability to know how to work with people and make them feel wanted. We can speak as long as we want about the bureaucracy, or Federal employees, State employees, or other government employees, and look down our nose at them. But frankly I have found both in my State experience as well as in my Federal experience, that these people are human beings who are willing to do a job and willing to carry out a policy provided somebody will give them direction.

It just means that you have to be extremely clear with the enunciation of what you want done, and be sure that this permeates not just to the half a dozen, or 10 people that might report to you, but also out to the field.

I make it a point on every one of my visits that I make to a city, to sit

down with my field people. Not just a half a dozen people, which I did the first half a dozen times. I decided if I was going to spend a half an hour or an hour here with some of my people, to get their assistants in at the same time. Therefore, I meet with 40 to 50 of the regional people around San Francisco, or around Atlanta, or wherever it might be. As a result, we try to have our thinking permeate all levels.

We have found, frankly, as long as they know what the requirements are and what we expect of them, we have been able to delegate responsibilities to them, which have been carried out.

Now we haven't delegated everything. There are some things we have retained in our control, because we feel, at least at this stage of the game, we do not want to release that control.

But a great deal of what we do is delegated to the field. In most cases they do a great job.

We also have been working out, and have reduced, the number of things that have to be discussed between HUD at the national level and DoT at the national level.

Unfortunately, we don't have regional DoT administrators. We are just getting them appointed right now, as a matter of fact. But we do have regional Federal Highway Administrators. And on a highway problem, they can talk with the Regional Administrators of HUD there, and in many cases resolve it at the local level instead of having to come to Washington.

VICE CHAIRMAN HORN. Let me ask you, would Mr. Lally, who I note is your Director of Civil Rights and here with you, would his office have a role in spot checking some of these proposals, to look at the civil rights implications, as far as the Department's overall policy and your policy as Secretary is concerned? Or, is he just concerned about employment?

SECRETARY VOLPE. No, no, he is concerned with civil rights. I can assure you that this is one of the areas in which, number one, we are very fortunate to have a man like Dick Lally. He has a great, great belief in his fellowman regardless of race, color, or origin. When I came aboard, the Director of Civil Rights did not report directly to the Secretary.

I insisted that the Director of Civil Rights report directly to me, because I felt this was an area that crossed all the lines of all the administrations. Therefore, I wanted the man responsible for this area for the entire Department to be responsible directly to me.

We asked that each administration, likewise—it wasn't being done, I don't believe, in any case—to appoint a civil rights officer to report directly to the administrator of that administration. Frank Turner now has a Director of Civil Rights that reports directly to him.

Dick Lally serves in the coordinating role for each of the administration Civil Rights Directors and their staffs and then he spends time, together with members of his staff, spot checking some of the things that the administrations are doing, making certain he meets with them on a regular basis. At quarterly conferences, all of our regional people—not only those here in Washington, but the people out in the field—

are brought in for meetings, so they may have direct access to exactly what the Secretary has to say, and the reports that their respective administrators have made in their respective fields.

VICE CHAIRMAN HORN. In other words, they can monitor within the Department, on a program basis, what is going on from the civil rights aspect?

SECRETARY VOLPE. Absolutely.

VICE CHAIRMAN HORN. You are a member of the Civil Rights Subcommittee of the Domestic Policy Council, aren't you?

SECRETARY VOLPE. I believe so.

VICE CHAIRMAN HORN. Do they have any apparatus under that Council to really monitor civil rights activities within the Federal Government?

SECRETARY VOLPE. Bob Brown, together with Len Garment, really are the men who stay in my hair, shall I say, which is all right do because usually I am ahead of them. The Office of Management and Budget, of course, also has a role in this area now. So we do get from both the White House and the Office of Management and Budget from time to time, a communication, a telephone call, asking what we have done about the President's letter of such and such a date that calls for a certain thing to be done.

VICE CHAIRMAN HORN. Let me say in conclusion, Mr. Secretary, as a member of the President's Task Force on the Executive Branch during the transition period, I guess I was the lone advocate saying that the White House ought to have a regional presence, where they could bring together the directors, say of your Agency, which you are working toward, the directors of HUD, HEW, and other Agencies, just to make sure that the Administration's policy is being carried out on a regional basis.

One of my concerns, as I sort of go through the byways of the bureaucracy, and also having been here for a number of years, is that people still do things individually. And I can understand those concerns, and so can you, as I know you have. Whether, you know, it is building highways, or building houses, or paying out soil conservation payments or whatever it is, and there is a need somehow to get people together at the working level in the field to make sure that all these priorities are put together.

SECRETARY VOLPE. May I say that I think that probably, and this is not said in any partisan sense, it is just strictly a matter of fact—I think President Nixon, with one stroke of the pen, when he promulgated the order creating the 10 standard regions with common head-quarter cities, first for five Agencies of the Federal Government, and then asked all of the other Agencies that have dealings directly with the public, to also move in that direction, has probably done more to bring about a cohesiveness which was lacking before than possibly could have been done by any other means.

In Boston, for instance, while I served as Governor, we had a Federal Executive Board, but the regional office for the Highway Administration was in New York.

A Governor, even in just one agency or department, for instance, HEW, might have to go to five different cities, in order to get five different applications expedited.

Great progress has been made in this area. There are regular meetings. When I said I meet with some of my people, I also now address and go to meet with the Federal Executive Boards, as well as my own regional councils in the various headquarter cities throughout the Nation.

VICE CHAIRMAN HORN. All I am saying is, we need coordinators for the coordinators.

CHAIRMAN HESBURGH. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Lally, can I ask you a question?

The Secretary has brought out how the building of highways, the Federal Government aids the States, and the States participate, isn't that correct?

Have you found any State at all interested in civil rights, or do they leave all of this to the Federal Government?

I just wondered if any of the States have taken any positive program toward the relocation of people on grounds of civil rights?

MR. LALLY. Perhaps Mr. Turner should answer this, but I will give it a try anyway.

I think that over the past several years, there has been a great increase in the interest of State highway departments in the area of civil rights.

Perhaps most of the attention has been given to what was determined to be the highest priority area, and that was in the field of employment. All State highway departments now, by virtue of Federal Highway Administration guidance, have established equal opportunity coordinators. They have established field coordinators. They conduct compliance reviews, and they are active in the broader areas of civil rights. I think Mr. Turner has had meetings throughout the field on this topic.

COMMISSIONER RANKIN. With respect to relocation, could you point out any State, particular State, or any single State that has been making a noteworthy effort to bring this about?

MR. LALLY. I cannot at this time identify a particular State. Perhaps Mr. Turner can.

MR. TURNER. I think it would be very difficult to single out one State in comparison to another.

I think it is a fair statement to say that every State highway department is working in the direction that this Commission is working. And I don't believe that you will find any reluctance, any refusal to work with the objectives of civil rights in any of the highway departments of this country.

Obviously, they vary in degree just as individuals do, even on this Commission, but they are all working in the direction of the objectives of this Commission, without exception.

SECRETARY VOLPE. Could I just add to that, sir?

COMMISSIONER RANKIN. Yes. Please.

SECRETARY VOLPE. I would only add to what Frank has had to say, that there are those States that don't need coaxing or arm twisting. There are some that get it done, but it takes a little more effort on our part to get them to do it. And I can think of—

COMMISSIONER RANKIN. You would rather not identify any of these?

SECRETARY VOLPE. I would rather not identify. However, we have made the improvements, and we have made the changes and, as I say, it took a little effort, but it has been done.

COMMISSIONER RANKIN. Well, just one short question. In the building of highways, is there ever going to be, is there ever going to cease this demand for new highways?

SECRETARY VOLPE. Well, until and unless we provide a viable, clean, decent alternative to the automobile, you are just going to continue to build highways.

That is why we are putting a great deal of money into research and development, on systems to come on line not 15 years from now, but within the next couple of years.

COMMISSIONER RANKIN. Well, in square miles, what do we have in highways now? Do you have any idea how many—

SECRETARY VOLPE. Yes, Frank has those on his fingertips. I can remember some of them.

MR. TURNER. Yes, the total area of this Nation that is devoted to all modes of transportation, is about 1 $\frac{1}{4}$ percent.

COMMISSIONER RANKIN. One and one-quarter at the present time?

MR. TURNER. Yes, sir.

SECRETARY VOLPE. But I can name a city where almost a third of the city is paved over.

MR. TURNER. But that same third of the city was paved over or devoted to transportation before the automobile was ever invented.

All cities of the country, of the world, long before the advent of the automobile, had about the same amount of their area devoted to transportation, as is devoted today to the automobile.

The city of Washington D.C. actually has less area devoted to automobiles today in its street and highway system, than it did when Major L'Enfant laid out the city.

COMMISSIONER RANKIN. Well, I can believe that after driving to work this morning. Just one other question.

As we build more highways, doesn't it become harder to make them compatible to the environment, and not detrimental, or does it become easier, and that is my last question?

SECRETARY VOLPE. Do you want me to take that?

MR. TURNER. Well, I would say that it is easier, sir. The attention that has been given in the last few years—by that I mean within the last 10 years—to the questions of social values, environment, human factors, and things like that, is rather tremendous.

I believe the job is actually easier today than it was 10, 15, 20 years ago.

COMMISSIONER RANKIN. And it will be easier in the future, you think?

MR. TURNER. Easier in the sense that there is both public acceptance of these factors and their costs, and there is acceptance within the profession of the need for including these factors.

COMMISSIONER RANKIN. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. I will yield to Mrs. Freeman, if I may.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Secretary, I would like to know how many employees are in the Office of Civil Rights?

SECRETARY VOLPE. We have, of course, both a Civil Rights Office in our own Office of the Secretary of Transportation and we have an Office of Civil Rights in each of our administrations. We are set up a little different than most of the Departments in that we have separate administrations with the Secretarial office giving general supervision.

Dick probably has those figures in mind better than I. I remember our own totals, but I don't remember the others.

COMMISSIONER FREEMAN. Could you give me the figures for each?

MR. LALLY. Yes. I think these will generally be accurate, but I don't know.

SECRETARY VOLPE. Within one or two.

MR. LALLY. In the departmental Office of Civil Rights, I think we have 13 or 14 positions.

And then we have an Office of Civil Rights, for example, in the Federal Highway Administration, which I think has about—this is headquarters—another 15 positions or so.

SECRETARY VOLPE. Here in Washington?

MR. LALLY. Yes. We have another—in the Washington headquarters of the Federal Aviation Administration, there will be another 15 positions. In the Washington headquarters of the Coast Guard, there probably are closer to 20 positions. And in the Washington headquarters of the Urban Mass Transportation Administration, there are probably about 10 positions.

Then we have regional offices, also, and there are, I think, 11 FAA field offices that also have civil rights specialists on their staff in a full-time capacity. And I would say they would probably run, on an average of the 10 offices, probably three, four positions each. So that would be another 40 positions.

We have regional offices for the Federal Highway Administration, also. And on the staff of the Regional Administrator, are civil rights specialists. And they would probably average 3—

MR. TURNER. I have 22—

MR. LALLY. —a total of 22, in the field, in the FHWA.

MR. TURNER. Plus the part-time assistants, and many other people.

COMMISSIONER FREEMAN. These include the clerical positions?

MR. LALLY. Yes, I would say generally the—

MR. TURNER. No. Not in mine.

MR. LALLY. The Federal Highway Administration does not include — There would probably be a few additional clerical support across the board there.

COMMISSIONER FREEMAN. You have about 125 employees responsible for the entire United States?

MR. LALLY. Those are the full-time civil rights professional staff of the Department.

The civil rights resources of the Department are multiplied in a number of ways. As Mr. Turner indicated, in each of the Federal Highway Administration division offices, there is an equal opportunity coordinator. That would add 50 more.

In the FAA, all of the airports' program people are employed in the conduct of Title VI compliance reviews, for example. These are people that day in and day out, during the course of their ongoing duties, are performing civil rights functions at the same time.

COMMISSIONER FREEMAN. My question, Mr. Secretary, is with respect to the input of these people or other persons with respect to a decision in terms of urban mass transportation, or the Federal aid highway program.

One of the continuing complaints is that a central city around this country may be sort of dissected, and people displaced without regard to what will happen to them, and without any opportunity to have anything to say about it.

At what point would there be any input from the people to be affected, from the civil rights people or any other resource persons?

SECRETARY VOLPE. Let me first of all set the record straight insofar as the number of cities where there are any problems in this area.

This has been tremendously magnified. As a matter of fact, there are only about 11 cities left in this Nation where we have any problem with regard to the location of highways. Is it 11 or 12?

MR. TURNER. Eleven.

SECRETARY VOLPE. Eleven apparently is the correct figure.

The fact is that it represents—I had the percentage figure in my mind—is it less than 1 percent—

MR. TURNER. Less than a quarter of a percent.

SECRETARY VOLPE. —less than 1 quarter of 1 percent of the total mileage that we are working on.

COMMISSIONER FREEMAN. Mr. Secretary, could you speak of it in terms of those cities involved?

Because, you see, 1 percent, if you were talking about New York City, may mean something different than 1 percent if you are talking about a small town of 10,000.

SECRETARY VOLPE. Of course. What I said was about 1 quarter of 1 percent of the total mileage is affected.

The fact is that in these 11 cities, one of the major reasons we have not resolved the situation is because there is a dispute as to where an expressway shall go without, one, disrupting the community values. Second, there is the necessity for making certain that housing is available. In some cases they haven't been able to come up with an answer. Not unwilling, but just don't have the space, in some cases. Third, there are problems of the environment which have become very much a part of the decisionmaking process, and the other 20-odd criteria that

Mr. Glickstein spoke about.

But those are a very limited number of cities. As a matter of fact, they are so limited in number, that the Secretary himself has had to get involved in practically every one because the problems will be very difficult regarding decisions as to how and if you can construct a highway at all.

And in some of those 11 communities, I would daresay there is a good possibility that highways may not be constructed at all. The local authorities and the State authorities have not been able to come to a decision themselves, as to where it should be built. We tried to act as a negotiator, in a sense, to try to get them together on a basis that will give us the kind of a job we want and which we believe is essential.

However, we have told them that in some cases, especially on the Interstate system, unless they resolve the problems with these particular projects, that they may lose Federal aid funds. As a matter of fact, the Congress wrote into legislation in the 1970 Federal Highway Act, that unless they have made the decision by July 1st of 1973—1972—that we will be able to write them off the Interstate system.

COMMISSIONER FREEMAN. Could you provide for the Commission the names of those cities, sir?

SECRETARY VOLPE. Yes, we will.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Thank you very much, Mr. Secretary and your associates. We appreciate your coming today and I think we have learned a few things from this, and we count on your support and effort to push forward on these goals.

SECRETARY VOLPE. That you can be sure of, just so long as the dear Lord gives me the strength.

CHAIRMAN HESBURGH. Our Vice Chairman would like to make an announcement for the record.

VICE CHAIRMAN HORN. For the record, I understand we have apparently two microphones in front of us today, and I don't want to get into this issue now.

But I would like the Staff Director to contact the appropriate people and find out, Number one, what the reasons are for it in terms of the taxpayers paying the cost of this, if it is the insistence of the networks, or are they paying it?

Number two, the particular union that installed them, I would like to know the percentage of minority employment in that union, as a matter of the record, and I would appreciate a thorough memorandum on it.

I might add also, Mr. Chairman, that I am bothered that our microphones cannot be shut off, once we are not speaking. And, I don't know about the others, since often confidential conversations are conducted up here, I would hate to have them broadcast around the country—not that they are particularly in the last few days as I monitor the networks.

CHAIRMAN HESBURGH. We will now have a recess until 3:15.

CHAIRMAN HESBURGH. I would like to call our next witnesses, who are Mr. Arnold R. Weber, Associate Director of the Office of Management and Budget, and Mr. Richard Nathan, Assistant Director.

MR. WEBER. Mr. Chairman, it is correct that I am Arnold Weber, but I am not accompanied by Richard Nathan. I am accompanied by Mr. Dwight Ink and Mr. William Brussat.

CHAIRMAN HESBURGH. Fine.

(Whereupon, Mr. Arnold R. Weber, Mr. Dwight A. Ink and Mr. William Brussat were sworn by the Chairman, and testified as follows:)

**TESTIMONY OF MR. ARNOLD R. WEBER, ASSOCIATE DIRECTOR,
OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY MR.
DWIGHT INK AND MR. WILLIAM BRUSSAT, WASHINGTON, D.C.**

CHAIRMAN HESBURGH. Mr. Weber, I believe you have a statement, if you would like to do it briefly, and we will take the whole thing for the record—whichever way you would like to do it.

MR. WEBER. Well, with your permission, Mr. Chairman, because the focus of my testimony deals with, essentially, the administrative procedure, whose details might not be fully known, I would prefer to read it, and I think it is reasonably brief and would permit time for questioning.

CHAIRMAN HESBURGH. All right. I appreciate that.

MR. WEBER. Thank you, sir.

I am very pleased to appear before this Commission to discuss one of our activities, which may contribute to implementation of the civil rights policy in the administration of Federal programs.

Your invitation to the Office of Management and Budget to testify at these hearings, expressed a specific interest in OMB Circular A-95, as revised, entitled Evaluation Review and Coordination of Federal and Federally Assisted Programs and Projects.

(OMB Circular A-95 (Revised) appears as Exhibit No. 3 on p. 449.).

As Associate Director of OMB, I am keenly interested in the implementation of the circular, notwithstanding its bureaucratic designation, Circular Number A-95, represents an important element in our efforts to expand intergovernmental cooperation in the administration of the existing Federal Grant-in-Aid system.

Through this circular, we also hope to achieve better coordination of Grant-in-Aid activities at the point of action, that is at the State and local levels of government.

In view of the Commission's interest, I will explore the extent to which the project review system established under OMB Circular A-95 can contribute to the implementation of the various civil rights laws, particularly Title VI of the 1965 Act, dealing with discrimination under federally assisted programs, and Title VIII of the 1968 Act dealing with fair housing.

However, before I address this question, it would be useful to describe the A-95 review process, so that the Commission may more easily identify its potential role in the civil rights area.

OMB Circular A-95 was developed to implement section 204 of the

Demonstration Cities and Metropolitan Development Act of 1966, and in partial furtherance of Title VI of the Intergovernmental Cooperation Act of 1968.

Section 204 of the 1966 Act requires that applicants for Federal assistance to projects in metropolitan areas under certain program categories, largely of a public facilities type, must provide opportunity to an "areawide agency" to review the application.

Section 204 requires only that this areawide agency, which is referred to as a clearinghouse in A-95, be given an opportunity to review an application. It is not required to make such a review. And I think that is an important distinction to recognize.

Section 204 makes specific provision for cases where the clearinghouse has chosen not to take advantage of this opportunity.

The areawide agencies are described in Section 204 as those having comprehensive planning capability, and the review is concerned with "the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area, and the extent to which such project contributes to the fulfillment of such planning."

The program categories covered in Section 204 are open space land projects, planning or construction of hospitals, airports, libraries, water supply and distribution facilities, and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects.

I might note, probably the most active program area has been in the water and sewer waste treatment plant, as far as the clearance project has been concerned.

A-95 also serves to implement, in part, Title IV of the Intergovernmental Cooperation Act of 1968.

Title IV consists of a set of Congressional policy directives with the purpose of facilitating intergovernmental coordination of planning and development.

These statutory directives of Title IV form the basis for the broad scope of A-95 before the more limited—beyond the more limited and specific aims of Section 204.

A-95 is a four-part directive. Part One encompasses the review procedure in which the Commission has expressed interest.

In effect, Part One builds upon the review procedures developed for metropolitan areas under Section 204. It extends these to State government and to nonmetropolitan regions, and expands the coverage to include almost all public facility and physical development programs as well as a number of human resource type programs.

The review procedure is called the project notification and review system, or PNRS and works as follows:

The PNRS is an early warning system under which States and State agencies, metropolitan and regional bodies, and local governments that might be affected by a proposed federally assisted development, are provided with a chance to examine and comment upon it, before it is implemented. When a potential applicant for Federal assistance under

certain programs decides he is actually going to apply for such assistance, he sends a notice of his intent to appropriate State, regional, or metropolitan clearinghouses, or A-95 review agencies.

The notification briefly describes the project for which he is seeking assistance, and gives an estimate of when he expects to have his application ready for submission to the Federal Agency.

The clearinghouses identify those parties for whom the proposed project may have some significance. State clearinghouses involve other State agencies, and metropolitan and regional clearinghouses involve area agencies, local governments, or other major groups in the review process. These parties are sent copies of the notification.

The clearinghouses have 30 days after receiving the notification to indicate any interest they or their constituents may have in exploring the matter further with the applicant, and to arrange to do so.

If there is no such communication from the clearinghouses, the applicant is free to complete and submit his application.

If there are problems with the proposal subsequent to notification and, after consultation, there are still unresolved issues, the applicant must allow clearinghouses 30 days to review the completed application and submit any comments.

If comments or recommendations are submitted by or through the clearinghouses, the applicant must include them with the application. The comments are for the purpose of assisting Federal agencies in evaluating the application.

In addition to comments on the relationship of the proposed project to comprehensive planning indicated under Section 204, Title IV of the Intergovernmental Cooperation Act specifies other areas of concern which are open to comment.

These include land use, balanced transportation, aesthetics, environmental concerns, and similar matters. Thus Circular A-95 presents agencies of State and local government with an opportunity to influence decision on proposed federally assisted projects that may affect their own plans and programs.

The requirement of A-95, on the other hand, fall on applicants for Federal aid and on Federal Agencies administering programs providing such aid.

Review agencies, that is the clearinghouses and their constituents may or may not submit comments on applications. And if there are such comments they are not in effect, circumscribed by A-95. Therefore, comments concerning the civil rights aspects of a proposed project could be made.

We do not know the extent to which civil rights considerations have been raised in the A-95 process, although the Miami Valley Regional Planning Commission has indicated that it has dealt with civil rights matters in its reviews. And incidentally, Mr. Chairman, the magnitude of the projects cycled through is, oh, almost at a level of 20,000 now per year, so it is generating a lot of paper and a lot of comments, and we hope in a salutary way.

As I have noted, the range of programs covered by A-95 goes beyond

those originally specified under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, which focused largely on public facilities.

We recently revised A-95 to broaden further the coverage of programs subject to review. We also added some human resources programs, such as the OEO Community Action Program, and 24 housing and urban development programs. The revision only became effective on April 1 of this year. So our experience is still limited with respect to these changes.

The agencies designated as clearinghouses under the project notification and review system are several types. State clearinghouses are designated by Governors, and are most frequently the State planning agency or a unit in the Governor's office.

At the metropolitan and regional, or nonmetropolitan levels, the agencies designated as clearinghouses were for the most part originally established as comprehensive planning agencies. They are frequently councils of government. Many or most of them are in effect voluntary organizations, depending for their existence or status on the participation and support of the local governments in the area.

Their primary mission is coordination of development, planning, and cooperation in pursuing matters of common interest.

A-95 has done much to strengthen these organizations, and in carrying out the missions for which they were established.

Many of these organizations are still in the developmental stage. Their interest and expertise centers on orderly physical development of the region. They are generally untested in planning for human resources development, and have focused on technical planning issues.

To date they have demonstrated relatively little capability or taste for coping with social issues. Thus, such organizations have been more receptive to applying the review procedures to areas where there is a known community of interest among the member governments, rather than to potentially controversial matters.

However, to the extent that such organizations are able to deal successfully with regional problems, controversial or not, they help to establish a degree of acceptance that permits them to initiate consideration of more controversial issues.

There have been instances where such organizations have been able to play a constructive role within the civil rights field. As I indicated before, I understand that the Miami Valley Regional Planning Council has testified at these hearings on the so-called Dayton Plan, under which the council was able to secure agreement among its member local governments on a plan for systematically allocating responsibility for developing low- and moderate-income family housing among them.

In a less dramatic instance, the Metropolitan Washington Council of Government developed a Model Fair Housing Ordinance, which has, with minor variations, been adopted by most of its member governments.

Neither of these actions originated in the A-95 review process, although conceivably it could have played some facilitating role, had it

been applicable.

Within this framework of statutory intent, and experience, I would like to consider how A-95 might be amended to focus attention on civil rights considerations in State and areawide development.

We have not yet had the opportunity to explore fully the possibilities indicated here with the clearinghouses, the various public interest groups, and minority organizations. However, certain possibilities may, and will, be actively explored.

A review could, for example, provide an assessment of the degree to which a proposed project might contribute to the maintenance or dissolution of patterns of segregation or discrimination.

A review could identify situations where minority interests could be favorably or adversely affected, or a project might evoke or mitigate inner group tensions.

The A-95 review also might be used in connection with the 701 housing element to check compatibility of projects with plans to develop a more balanced housing supply. In such areas we believe that A-95 could play a constructive role.

On the other hand, the extent to which an A-95 review can contribute to the enforcement of the specific prohibitions against discrimination under Title VI and VIII may be limited because of the relationship of the review process to the standards applied by these provisions.

An A-95 review takes place well before any grant is awarded or contract signed. Its timeliness, of course, is an important element.

However, Title VI and Title VIII compliance provisions become operative subsequent to grant or contract award. In the case of housing, sponsors must certify compliance with Title VIII. It is only after a project has commenced, or housing is completed and for sale or rent, can a finding be made that discrimination has been practiced. But the A-95 review process could point out areas of possible noncompliance, since enforcement must be conducted by Federal Agencies and the courts.

It is significant that A-95—or it is apparent that A-95 has some promise in facilitating progress in the civil rights field. However, we must sort out what it can and cannot do in a realistic and objective manner.

The A-95 review process is a matter of choice by the clearinghouses and State and local governments, and we should try to build on its successes.

By itself the A-95 review process probably cannot solve major civil rights problems, but it can help build into our administrative procedures, a sensitivity to and awareness of the possible impact of Federal Government program decisions on civil rights at the local level.

It is OMB's intention to actively consider revising A-95 to include a review of civil rights considerations. We will discuss this matter with public interest groups representing State and local government, civil rights groups, and with the clearinghouses, the question of how A-95 might be most constructively amended to reflect civil rights objectives.

Following this review, we would expect to develop our recommendations for amending Circular A-95 to incorporate considerations related

to civil rights by August 1 of this year.

Thank you for your attention, Mr. Chairman, members of this Commission. I would be pleased to answer any questions.

CHAIRMAN HESBURGH. Thank you very much, Mr. Weber. Our Staff Director, Mr. Glickstein, will begin the questioning.

MR. GLICKSTEIN. Mr. Weber, I am interested in your comments that the A-95 review process is a matter of choice, and you did quote from the provisions of Section 204 on which A-95 is based, indicate that.

Why, under Title IV of the Intergovernmental Cooperation Act upon which A-95 also was based, couldn't this review process be required?

MR. WEBER. Well, it might be so as a legal matter, and I am not prepared to concede that, but to accept it as an alternative.

But it seems to me that you have to go to the purpose of the clearinghouse in A-95 procedure. Its original purpose arises from the observation that you have a flood of categorical programs, and categorical program grants going out to particular communities. Each in their own bureaucratic channels, each subject to their own timing and phasing.

At the same time, as a matter of policy and initiative, we have endorsed and tried to encourage comprehensive local planning.

So the initial purpose of the act was to say, those of you who are engaging in comprehensive planning, we will provide a vehicle whereby you can be notified on a timely basis, of possible Federal program decisions. So the purpose of it started not in order to bind the Federal Agencies, although the Federal Agencies do and should take into account some of the judgments of the clearinghouses, but rather to provide on a voluntary basis, timely information for local planning groups.

Now you know, it seems to me that it would just encumber the system to establish as a mandatory requirement, a local review, particularly in agencies or in regions where the mechanism doesn't exist, and where the governmental units might not want to establish them.

MR. GLICKSTEIN. Why couldn't you require that the mechanisms exist? That Federal assistance would not be forthcoming to an area that did not have a clearinghouse mechanism.

MR. WEBER. Well, again it goes to the purpose. I think the overall objective is making sure that in the development of local programs, that you have a local input, you see. And that it doesn't just fall like manna from heaven, you know, from Washington.

Almost all of these programs call for their own planning mechanism, you see, within the framework of that department's, or program's responsibility. For example, in the manpower area, local input is derived through the requirement that you submit a comprehensive area manpower planning system.

What we are talking about here is comprehensive planning, and I don't know whether within the framework of a particular categorical program, we want to lay on a requirement for comprehensive planning. And if we do, that is an issue, you know, of sufficient magnitude and gravity that it should be considered in its own right.

MR. GLICKSTEIN. Well, I would think that Title IV which talks about the achievement—the economic and social development of the Nation, and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural,—you have been emphasizing local interests, and Title IV seems to very strongly emphasize the national interest.

MR. WEBER. Well, we don't see them as being inherently contradictory.

I think that the thrust of the act was based on judgment derived from experience. There was a lot of program activity. There was 600 Grant-in-Aid programs, and 1,049 domestic assistance programs, and many of these were carried out without regard to the planning requirements, and planning interests of local governments.

So there is a high degree of planning that goes on at the national interest, at the national level, that I would clearly agree with you that planning at the national level does not subsume the national interest.

MR. GLICKSTEIN. Well, one of the ways the President, in his statement the other day, indicated that we were going to be able to break up areas of minority concentration in this country and provide free access to suburban areas, is that at least in the housing area, to qualify for Federal assistance, the President said, the law requires a local housing and community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way.

Why couldn't the A-95 procedure, and the clearinghouse mechanism be used to further that policy of the President's? Why couldn't planning be required, and review be required, the comments be required, and as far as whether or not the plan will deal with civil rights problems, you have already indicated you are going to explore that possibility.

MR. WEBER. Actively explore it.

I think in response to your specific question, Mr. Ink is most familiar with the planning requirements of the housing act, and he can answer that.

MR. INK. All I was going to say is that the comment that Mr. Weber made about the exploring areas in which A-95 might be useful was not limited or restricted to one facet of it, and this is an area that we will be looking at. We want to talk with both minority groups and public interest groups, keeping in mind the background and the origin of the legislation, which was designed not as an enforcement mechanism, but as a means for taking into account and recognizing the State and local plans when federally assisted programs move forward.

As Mr. Weber indicated, these are not necessarily inconsistent, but we do think we need to examine it rather carefully with both the minority groups and the public interest groups, how they can best be meshed.

MR. WEBER. Let me make a philosophical supplement to what Mr. Ink said.

There are a lot of meritorious and urgent goals in the civil rights area. Say, for example, in the extension of manpower training opportunities.

And it is sort of a tactical question, how can you best put your energies into that area to achieve that goal?

Now, you can set up sort of a procedure, which isn't really linked to any substantive program and say this is going to be the bureaucratic catch basin, so to speak, and everything is going to go in there. Manpower training, airport grants, and what have you.

Or, you can say you will try to build those considerations actively into the program guidelines and planning requirements for that program itself, as in fact we have done in the manpower area, as we are in the process of doing in the area of urban mass transit and related fields.

So I would not, you know, and we do not—and I hope you were sensitive to the implication of our statement—we do not preclude the A-95 process as playing a useful role.

But in particular problem areas, it is the main channels of activity that are associated with those programs themselves that will have to carry most of the water, at least in my judgment.

MR. GLICKSTEIN. Well, there is a whole continuum of things that could be done. I suppose the most extreme thing is to require clearinghouses and to require clearinghouse review. Let me suggest some less extreme matters.

MR. WEBER. Well, we just wanted to say that one horse can only carry so many riders.

MR. GLICKSTEIN. For example, Title IV itself says that all viewpoints, national, regional, State, and local, shall be considered.

But in Circular A-95, where the subject matter of comments and recommendations are outlined, all that is asked for are comments on the extent to which the project contributes to the achievement of State, regional, metropolitan, and local objectives. There is no mention of national.

I would think at the least, Circular A-95 would require the consideration of national objectives, one of which is Title VIII of the 1968 Act.

MR. WEBER. I see no problem in principle with that, Mr. Glickstein. I would believe, though, that as an expectation that national considerations are taken into account by the Federal Agency which is charged with the administration of the program, so that as an application comes up and has appended to it comments generated by the review process, they are procedurally and intellectually, if you will, meshed with something called national considerations, which are the province of the Federal Agency.

MR. GLICKSTEIN. Well, I would hope that one of our goals would be to encourage regional clearinghouses to take national interests into concern, and not just leave that problem with the national government.

MR. WEBER. I agree with you.

MR. GLICKSTEIN. Then the other—another suggestion, and I think your statement indicates that this would be entirely feasible, is to include among the—assuming that the comments are voluntary and I won't debate with you about that, but why couldn't one of the matters on which clearinghouses could have the opportunity to comment would

be the extent to which—you suggest that that would be a possibility—I am just wondering why that isn't just so readily apparent—the extent to which the particular request for assistance will further racial concentrations or will provide access to housing, or opportunities on a regional basis, something of that sort.

MR. WEBER. Well, we did indicate that that is one of the dimensions of the problem that we would explore with the interested parties, and involved parties, that is correct.

MR. GLICKSTEIN. I would like to just make one other comment, since I notice that you said you were going to discuss this matter with public interest groups representing local and State governments, with civil rights groups and with clearinghouses, and you did not mention the Commission on Civil Rights. In case we don't get another chance to comment, I would just like to make—

MR. WEBER. I would expect that one way or another you will get an opportunity to comment, Mr. Glickstein.

MR. GLICKSTEIN. You talked about the limitations that A-95 places, with respect to Title VI and Title VIII, on pages 10 and 11 of your statement, and you said that, for example, in the case of housing sponsors must certify compliance with Title VIII. It is only after a project is commenced, or housing is completed and for sale or rent, can a finding be made that discrimination has been practiced.

Well, my concern is that is a rather narrow interpretation of what Title VIII means, or what discrimination is. The mere location of a particular housing project might involve a violation of Title VIII. Or, violation of Title VI.

I would suggest that there are a lot of things that could be done in these very preliminary stages. One of the problems we have had in enforcing civil rights laws is that not enough preaward checking has been done.

MR. WEBER. Well, I think, without being pettifogging about it, the language of the testimony reads, "can a finding be made that discrimination has been practiced." That is, that would relate to a commission of an act that is taken, rather than a contemplated act that would be associated with the project submission, and in the case of the A-95 process, really a precis of a project application.

I don't think we are held guilty for bad intentions in their own right, to the extent that we can identify it. This, in no way, gainsays your point, but rather explains the careful construction of our testimony.

MR. INK. I think the area that you expressed interest in is the one of the areas in which we think this probably holds the greatest promise, in terms of the pattern of location of low-income housing.

And particularly to the extent to which that is reflected in regional planning. And we would think that it would be particularly useful in those instances.

MR. GLICKSTEIN. I have no further questions.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. Mr. Weber, what was the extent of the Office of Management and Budget's participation in the President's

statement of June 11th on Federal policies relative to equal housing opportunity?

Did you actively participate in the draft of that message?

MR. WEBER. Did I actively—

VICE CHAIRMAN HORN. Well, your office?

MR. WEBER. Mr. Horn, you are asking me to be aware of everything that goes on in my office and, as you know, that is a formidable burden for any bureaucrat. I was not personally involved.

VICE CHAIRMAN HORN. Do you know if anybody from OMB was?

MR. WEBER. I am not in a position to answer that with the accuracy—

VICE CHAIRMAN HORN. What leads me to this is that I commend the Administration for trying to get results oriented, because we have had a decade of rhetoric on this subject. But now that we are getting results oriented, I am interested in the apparatus for coordination at both the national level and the regional level, and in both the background statements, the President's statement, the Attorney General's press conferences, in various statements to this Commission by heads of other Agencies in the Federal Government, be it EPA, GSA, etcetera, it has been made clear that HUD is to be the lead agency, if you will, that is the phrase used, in carrying out this policy statement of the President.

Now my query is this, should HUD feel one way about a particular policy, and let's say, comes into conflict with the Department of Transportation, what apparatus have you got to resolve the matters between these two Departments, to pull this issue out to get real coordination taking civil rights priorities into account.

MR. WEBER. Well, I do not know the specific details as it relates to HUD's role as lead agency in possible interagency conflict.

However, I can lay on the table briefly, the array of mechanisms that we have to try and mediate, broker, or ultimately decide issues which involve interagency conflict, and interagency difference of opinion is, as you know, an everyday occurrence.

First, between the Agencies themselves, particularly at the staff level. Then you move up to a policy level. Then you make a judgment whether you want the Cabinet Secretaries involved. In some instances they are not involved, and then it goes over to the Executive Office of the President in the White House.

I daresay, in some instances, given our organizational arrangements, OMB, through its so-called desk officer arrangements, that is one Assistant Director serving a particular set of departments will, on occasion, be called upon to resolve these disputes.

If that doesn't work, it goes to the boss.

In other instances, it would go to Domestic Council and White House staff.

I am not sure, or I am just not aware of, the particular locus for the resolution of disputes that has been developed in this area, but I must say, and this reflects some of my own experience in the Department of Labor before I came to OMB, it was our feeling down in the Depart-

ment of Labor, that if you had a problem, there were plenty of people up there who wanted to settle it for you. And I am sure that will be the case here.

VICE CHAIRMAN HORN. As you recall, Father Hesburgh and I met with you and Mr. Shultz in August on our Civil Rights Enforcement Report, and some of the points we made there, and later made publicly, were, one, to get the budget examiners actively involved in reviewing civil rights priorities, and I think you agreed with that, and are implementing that.

The second, which I do not believe you agreed to, was to have within OMB an Office of Civil Rights, which could monitor, dip down, pull some of these things out that are crawling between the cracks, so that once the President has decided on a policy, and I commend him for deciding this one, that we can do something to carry it out, not just wait another 10 years for more rhetoric.

MR. WEBER. I think in part the difference is semantics, Mr. Horn, and if it resolves down to a difference of opinion concerning the most effective bureaucratic tactics, I am prepared to discuss that with you.

When I was—as a matter of fact—when I was Assistant Secretary of Labor for Manpower, my general judgment was if you had a little box attached to the Assistant Secretary, and he was called your Special Assistant for Civil Rights, you really are swimming against the tide. And that is what we had there.

If you really want to make progress in the everyday administration rather than on an after-the-fact compliance basis, you have got to get those considerations into the line and the day to day administrative operations.

Now, be that as it may, what we have done in OMB is we have established a unit. It is a unit now comprised of three examiners. And lest you flinch at the numbers, let me say in passing, that that is equal to the number of examiners that we have for NASA and Department of Commerce, and their ongoing charge is to have cross-cut responsibility, across all of our program divisions, which take into account the broad scope of Government with respect to civil rights consideration.

VICE CHAIRMAN HORN. Okay. So we do have three examiners then to look at this—

MR. WEBER. Well, wait a minute now. Wait a minute. Because we work on leverage, Mr. Horn. We work on leverage. Those three examiners, now, insure, for example, that we have a civil rights review in our budget process. And we have just completed what we call our spring preview, with respect to getting a set on fiscal 1973 budgets.

One of the reviews, along with the environment, along with R&D, along with science, was in the civil rights area. That means that every examiner who looks at his particular Department and his particular program, knows that he is responsible for applying and examining the civil rights performance and implications of his Department for which he is responsible.

Mr. Shultz is sensitive to it, and I am sensitive to it—

VICE CHAIRMAN HORN. Well I know you are, and I commend you

for having the three examiners. I hope they will work closely with the Commission. We have hundreds of feet of reports that I think would be helpful in most of these programs.

Now, moving to the region, one of my concerns again at the region, here we have all these departments. You are slowly, and I think commendably, trying to get one unified regional, at least outline, at the same States and the same headquarter cities.

But we still get down to the fact of, who really gives the Administration's word, or OMB's word in the region to pull these Agencies together on a regional basis?

Now I know during the Second World War, the Bureau of the Budget had three offices which Congress took great delight in abolishing as rapidly as they could after the Second World War.

And I am wondering, is there any thought, and I have long advocated this, that OMB get a regional presence, so that as you decentralize decisions in areas like this, by the hundreds of millions of dollars, you can grapple with this down where it counts?

MR. WEBER. Well, this is an important and complicated question, and we have addressed it specifically, and addressed that alternative at this time and probably in the foreseeable future.

It goes in part to the role of OMB as it relates to the Department. We have now gone through a giddy period of growth, and we are up to 691 people, and there is much to be said for keeping us small, professional, nonoperational in the sense that we are charged with running programs.

Also, the statutory authority and responsibility for programs, in many instances, does not go to the President; it goes to the Secretaries and the Cabinet heads.

So we feel that we operate, can best operate, by trying to develop procedures and institutional arrangements, procedures for followup, to insure that departments do their job well, and to try and help them do their job well.

If we would put somebody in the field—and incidentally we have liaison people assigned to all the 10 regions and they go in and out—but to put somebody out there, would at this stage erode the line responsibility and accountability that the President and OMB are trying to build.

In other words, if something goes wrong in the HUD program, you know, it is the easiest thing in the world to blame that interloper from the Executive Offices of the President who is out there messing. The real responsibility goes to the Secretary of HEW, who, in turn, presumably is held accountable by the Congress and by the President.

So we are trying to support development of regional apparatus and, as you know, we have given great impetus to the regional councils, and we want the regional councils to be effective devices for interagency action at the local and regional level.

We do not think at this time that it is appropriate for OMB to have people out there on a permanent basis.

I might say, I understand they did have it shortly after World War II.

It was called the Eyes and Ears, but Congress didn't like those eyes and ears and those positions were eliminated.

CHAIRMAN HESBURGH. We have 3 minutes left. Dr. Mitchell, I hate to be cutting you short, so why don't you take up the questioning?

COMMISSIONER MITCHELL. This is more a comment than a question, but maybe it is both, and I will keep it within 3 minutes.

The Christians down here, Father, are afraid of the lions up there.

What troubles me, as I listen to this, clearly what you are talking about with clearinghouse reviews, with examinations of proposed Federal programs, with interagency implications, all boils down to some fellow—to a man, or a woman or a child who either can't get into a decent school, or for whom there is no library, or for whom there is no real highway to get to work, or something like that.

Now when we had a hearing in St. Louis, we had a witness from Olivette. He was a black man. Now this black man lived out in the meadow, which was annexed by Olivette, largely because it was full of black men who lived in the meadow.

They then applied for urban renewal funds, and they got the urban renewal funds, they went to all the black people in the meadow and said: "You are in the way. We have a slum clearance project, so you had better leave." And all the black people left.

And they then rezoned the land light industrial, so they could improve their tax situation, and none of the black people ever came back.

Now none of those people really knew what happened to them.

You can talk about clearinghouses and review mechanisms, and you can talk—as you use the phrase out there—people out there—all the minority people of the United States are out there. They are not on review committees and clearinghouses. And I hope that in developing any mechanism, whether it is A-95 or your Title IV, or your intergovernmental mechanisms, or this small bureau of professions you are talking about, that we never lose sight of the fact that individuals want to know what their rights are. And that you have to ask them how programs affect them and not committees and Ohio Valley Planning Societies and all of the rest of it.

MR. WEBER. Mr. Mitchell, you know, of course, I agree with you completely in principle. What you have stated is the problem of democracies and complex societies.

There are several apparatus that are there, the CAAs, the Model Cities groups, and at risk of seeming to appear to give a commercial, that is one of the reasons this Administration has endorsed the concept of revenue sharing—one of its purpose to provide fiscal relief and, secondly, to bring decisions closer to the people who are affected by those decisions, so they can have an impact on them in a timely basis. But I certainly agree with you.

COMMISSIONER MITCHELL. I am simply commenting for the record, on the need for carrying a clearinghouse function beyond the bureaucratic concept, of getting a few guys from out there to say it is okay.

MR. WEBER. Well, if those are the right few guys, and are representative of the people whose interests you feel are ignored, that is the sort of situation that we want.

CHAIRMAN HESBURGH. Mr. Weber, we appreciate your coming.

I just wanted to add for the record, a word to associate myself with Dr. Horn. We do appreciate the efforts that have been made to get a systemic input of the civil rights concern into the total budgetary process, where I think perhaps the greatest leverage of all is, in all bureaucracies, where all the money comes from, and that this is apart of the decision of how much money people get, and for what purposes they get it.

We also appreciate the fact that this year I think, Mr. Shultz worked hard to put extra people on compliance because they were so understaffed throughout the Government. That should be very helpful in the years ahead.

I believe our concern about a special dimension within OMB for civil rights was simply to be sure that the expertise was there on this broad set of problems that are very complicated, very involved, especially in areas like housing or financing, things of this sort.

I would just like to say on the part of the Commission, that if we can ever be helpful, we have people that have had 10 or 15 years specific expertise in these areas. We are at your service, because I think we have the same goals.

Thank you very much for coming, and also your associates.

MR. WEBER. Thank you, Mr. Chairman. I appreciate your comments.

(Whereupon, Attorney General, John N. Mitchell, Mr. David Norman and Mr. James Turner, were sworn by the Chairman and testified as follows:)

TESTIMONY OF THE HONORABLE JOHN N. MITCHELL, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, ACCOMPANIED BY MR. DAVID NORMAN, ACTING ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, AND MR. JAMES TURNER, DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, WASHINGTON, D.C.

CHAIRMAN HESBURGH. Mr. Attorney General, you have a statement I guess you want to read or summarize. Do whatever you wish with it. We will make it a part of the record as is.

ATTORNEY GENERAL MITCHELL. Well, Father, with your permission, since you have the statement before you, I think I might conserve your time by not reading it.

CHAIRMAN HESBURGH. We would appreciate that, because we have been running late all day.

ATTORNEY GENERAL MITCHELL. I know that.

I would like to say that we appreciate what the Commission is doing. That we would like very much to have its recommendations after its hearings are over, and of course to have our Department work with your staff.

CHAIRMAN HESBURGH. Thank you very much, sir. We have long been concerned with the same problems, and I hope this is a period

when we can make some great progress on them.

(Whereupon, the document referred to was marked Exhibit No. 41 and received in evidence.)

CHAIRMAN HESBURGH. I would like to ask Mr. Glickstein, our Staff Director, if he might begin the questioning.

MR. GLICKSTEIN. Mr. Attorney General, for the record, would you introduce the two gentlemen accompanying you, please.

ATTORNEY GENERAL MITCHELL. Yes. On my left is Mr. David Norman, the Acting Assistant Attorney General, Civil Rights Division, and Mr. James Turner, Deputy Assistant Attorney General, in that same Division.

MR. GLICKSTEIN. Mr. Attorney General, we have heard a lot of testimony the last few days about the President's statement on housing opportunity that was issued last Friday.

Would you say that this reflects a strong policy commitment on the part of the Federal Government, to remedy racial and economic polarization in our metropolitan areas?

ATTORNEY GENERAL MITCHELL. It certainly is very strong on the subject of racial discrimination. And to the extent that racial discrimination affects economic integration or economic discrimination, I am sure that it will serve a substantial purpose in that direction.

MR. GLICKSTEIN. The statement, in describing the way priorities are going to be granted for housing applications, does indicate consideration will be given to moderate- and low-income housing, so I assume to that extent our economic polarization will be dealt with, is that correct?

ATTORNEY GENERAL MITCHELL. I am sure that is the case, and I am certain that the activities of Secretary Romney and the regulations that he has drafted, and those that are to come, will be addressed to providing middle-income and low-rent housing, of course which will help in the economic field.

MR. GLICKSTEIN. Yesterday, Mr. Attorney General, Secretary Romney said that he believed that a dual housing market exists in practically all metropolitan areas of the United States. And he went so far as to say, that most real estate brokers have one list of houses they show to black people and one list of houses they show to white people.

Has it been the experience of the Department of Justice that the problem is as severe as Mr. Romney described?

ATTORNEY GENERAL MITCHELL. No, I would not believe that that be the case.

Undoubtedly, there are areas in which that practice exists. We know that from our investigative experiences, and the lawsuits that we have brought to correct it, and, of course, the voluntary compliance that has eliminated those practices after the Department has become interested in a particular area.

MR. GLICKSTEIN. Well, the Secretary also indicated that the new affirmative marketing guidelines that HUD issued the other day applies to new housing and not to existing housing, and he indicated that this dual market that was perpetuated by brokers largely cons-

isted of existing housing.

And I would like to ask you whether there are—I know the Department has brought lawsuits against brokers, but I would like to ask you whether there are any possibilities of extending the type of relief the Department has sought, for example, to sue all the brokers in the community, if that community appears to have a dual housing market that is stimulated by the real estate brokers.

ATTORNEY GENERAL MITCHELL. Yes, there are those potentials, and, of course, we have addressed ourselves to the multiple listing services, which involve a substantial portion of the community, and are getting at the problem through that.

MR. GLICKSTEIN. I know that it is inappropriate for you to comment on pending litigation, or litigation in preparation, but would you consider this type of suit priority for housing litigation?

ATTORNEY GENERAL MITCHELL. Yes, very much so.

We, in addressing the matter of litigation in this field of open housing, have selected the suits where we could do the most good, where there are patterns and practices, and where the relief granted in a particular case will have the greatest impact. And, of course, as I mentioned previously, where we are successful in such litigation, it has a ripple effect in the removal of the practices in other areas and other entities.

MR. GLICKSTEIN. The data I have indicate that in the current fiscal year, the Civil Rights Division has 150 attorneys, 20 of whom were allotted to the Housing Section, and I understand you have requested 18 more lawyers for fiscal year '72.

I remember in the days when I worked in the Civil Rights Division, and the Civil Rights Division intervened in a case, the Division was even smaller then, often the newspapers would say the full power of the Federal Government has now been brought into play, and there I was alone, up in the library, writing a brief. And that was the full power of the Federal Government.

ATTORNEY GENERAL MITCHELL. Well represented.

MR. GLICKSTEIN. Thank you.

Given the President's statement that the Federal Government must undertake the vigorous enforcement of fair housing, would you consider attempting to increase the staffing of your housing section?

ATTORNEY GENERAL MITCHELL. We have had that matter under consideration. And it is quite possible we will. We have another resource, which is becoming more and more effective, and that is our United States attorneys.

Some of the Offices, as you know, have their own Civil Rights Sections. Others have personnel that work in this field, and we presently have, in Washington, all of our United States attorneys and we are having seminars on this subject matter.

They represent tremendous resources which can be used in this field and, of course, have been quite effectively.

We are finding that there is less and less a disposition on the part of U.S. Attorneys to shy away from our civil rights litigation. They are all

dedicated to it, and we have had an understanding with each and every one of them, whether they were in the North or the South or the East or the West, that this was going to be part of their responsibility, and they have unanimously accepted it. So we do have substantial resources in that area.

MR. GLICKSTEIN. Moving on to the lawsuit that you filed on Monday, the Black Jack Case, the complaint indicated that the basis of the suit was that the practices in that community had the purpose and effect of excluding minority group persons, and I am curious about the extent to which the Department will be able to litigate where the purpose of what was done isn't quite as clear as it was in Black Jack, where it is more a question of the effect of some action?

ATTORNEY GENERAL MITCHELL. You are not talking about the city of Black Jack case, you are talking about that general area?

MR. GLICKSTEIN. Yes. That is correct.

ATTORNEY GENERAL MITCHELL. Obviously, each case will have to be looked upon and examined on its own standing or merits or demerits. And this, of course, we propose to do. You can't generalize in that area.

But I would say, as the President's statement has said, that where there is any vestige at all of racial discrimination, we can move against it regardless of the other factors involved.

MR. GLICKSTEIN. Now, some people are concerned that the Supreme Court's decision in the Valtierra case a few weeks ago limits the actions of the Federal Government.

I notice in the President's statement, that the scope of that decision, I thought, was rather narrowly defined.

Do you feel that the Valtierra decision does have any serious—places any serious limits on what the Department can do in the housing area?

ATTORNEY GENERAL MITCHELL. Well, it does to the point that you interpret it through what the dissenting opinion said, which was very clear, that they believe that the Court had eliminated everything except racial discrimination. And the substance of that case, dealing with the definition of persons of low-income which was the subject matter that you got down to, certainly got to the economic issue which the Court did not accept. The majority opinion, of course—at least in my opinion—went directly to the absence of proof that there was any racial discrimination involved.

MR. GLICKSTEIN. I notice that in the President's statement, he also placed a great deal of reliance on the fact that the California system of referendum was a very old and established procedure.

Do you think that is a factor that might be considered?

ATTORNEY GENERAL MITCHELL. Well, the President took that observation from the majority opinion of the Court. They pointed that out—to show, I presume, that this was a tradition in California, and it was not something that was devised for the purpose of defeating this particular project.

MR. GLICKSTEIN. I gather that—am I correct in reading the President's statement as suggesting that the Valtierra decision does not

place limits on what HUD can do, for example, in setting priorities as to where it will provide financial assistance, and where it won't?

ATTORNEY GENERAL MITCHELL. In no way, shape, or form, whatsoever, other than the requirement that exists in the laws, and of course would exist in California. But you would have to have a legal authorization of a low-rent public housing project before he could enter into the contributions contract with them.

MR. GLICKSTEIN. That would be a local requirement?

ATTORNEY GENERAL MITCHELL. That is definitely a local requirement but, of course, under his statute, as I recall, there is a requirement of approval by the local governmental body before a housing authority or other public entity can go ahead with a project. And he would have to respect that.

MR. GLICKSTEIN. Perhaps I can ask you a rather technical question which we discussed with Secretary Romney yesterday, and I am not sure the answer was entirely clear.

The President said in his statement, to qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way.

The Secretary seemed to suggest that this requirement only applied to things like water and sewer grants and open space grants and urban renewal grants, that the requirement that there be a plan did not necessarily apply to subsidize the nonsubsidized housing request for assistance.

ATTORNEY GENERAL MITCHELL. Mr. Glickstein, I am not certain that I can answer that question with any definite assurance that I am correct.

I believe that the statement here was made in connection with the requirements of the workable program, which does, of course, have a housing element in it.

MR. GLICKSTEIN. I have no further questions.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. Just on that latter point.

I notice the lead-in sentence is that the President is saying, underlying our housing policies embodied in our laws and our Constitution are certain basic principles, and that is certainly one that he seems to place great stress on as does this Commission, and it is, of course, one that we have raised with each individual coming before the Commission.

Let me pursue one other point that Mr. Glickstein raised, just to make doubly sure on the answer.

He asked you about purposes and effects, and I notice on page 6 of the President's message, he says in the really third full paragraph: "The Courts have also held that when its reasons for doing so are racial, a community may not rezone in order to exclude a federally assisted housing development. In such cases, where changes in land use regulations are made for what turns out to be a racially discriminatory purpose, the Attorney General, in appropriate circumstances, will also bring legal proceedings."

Then on page 10 we note, or he notes, that: "When such an action is called into question, we will study its effect."

And I think the query is this, and let me just make an assumption, see if you agree with it. I take it that you will look at both purpose and effect in deciding this?

There has been some concern expressed in the press, by some witnesses, that you really might be looking only at the purpose that might underlie a particular action, rather than the effects of discrimination. And there is a great concern that some emphasis, maybe great emphasis and a priority ought to be placed at looking at the actual effects of discrimination.

ATTORNEY GENERAL MITCHELL. Well, the question that you present, I think is the one that I answered before, that where you have a purpose or effect of discrimination, and it is racial discrimination, then we, the Department of Justice, under the direction of the President, will take these actions.

VICE CHAIRMAN HORN. Because there might be, really, a lack of clear purpose, is our point.

But the effects are obvious, but you really can't pin it down, but there is a discriminatory result, maybe an unintended consequence of a particular action. I think this is what we are trying to get at.

ATTORNEY GENERAL MITCHELL. This is conceivable, and that is why I say that you can't speak to this subject matter in generalities. You have to get to the specific cases and analyze them to see if there is that purpose or effect.

VICE CHAIRMAN HORN. Let me ask you one final question.

Without regard to the litigation aspect, but in your role as a member of the Cabinet, as a member of the Civil Rights Subcommittee of the Domestic Policy Council, and looking at just general Federal programming and the priorities, values, considerations that are brought to bear on whether you put a freeway here, or a housing project there, and the general meshing of Federal programs, are you satisfied with the degree to which civil rights considerations that do not involve litigation or cases are really brought to bear prior to the approval of Federal policies?

ATTORNEY GENERAL MITCHELL. No, I certainly am not. And I don't believe that anybody in the Cabinet is satisfied to that extent. I think that you will find by the record that this Administration has made great progress in that direction. Some of the President's Executive orders, his instructions to some of the Departments and Agencies, I believe are building up a much better picture than we have had before, but, obviously, it should have greater consideration along with whatever other considerations are given before you locate a Federal building or a highway or whatever the project may be.

VICE CHAIRMAN HORN. Would you have any suggestions as to an appropriate administrative apparatus, either in Washington or in the field, to achieve greater coordination and taking into account these priorities and considerations?

ATTORNEY GENERAL MITCHELL. I think it has to be done in Wash-

ington at a top level where you get the coordination of the different Departments and Agencies, and I think that is what is being done now.

VICE CHAIRMAN HORN. This is at the White House or OMB level, presumably?

ATTORNEY GENERAL MITCHELL. Yes, the OMB, of course. They are the ones that are working in that field now, and it is the Agency that has the technical knowledge and the broader scope. I think it can probably more effectively bring it all together.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Attorney General, one of the major deterrents to achieving the purposes of Title VIII of the Housing Act is that it is complaint oriented.

Particularly, I would like to ask you about the provision that provides that where a State or local fair housing law exists, that when there is a complaint, that it must first be referred to that State or local agency, and for the—as you know, the 30-day suspension. Well, this, of course, delays further a basic right, and I think you know that a Supreme Court Justice said some years ago, that justice delayed, is justice denied.

I would like to ask, if you would recommend the elimination of this provision in the law, and if you feel that it would be—if it is your opinion that it would aid in achieving an open housing market?

ATTORNEY GENERAL MITCHELL. I would like to see that done.

What I would like to see done, is to have more State and local action in this field.

It is the necessity at times that the Federal Government start policing everybody, but a lot of these problems are local problems, and can and are being addressed in certain States and localities at a local level. So that I would prefer that for better enforcement.

I would also point out, of course, that we are not limited by that time element, and were that complaint brought to us, and it were within the scope of our activities, we could move on it directly.

COMMISSIONER FREEMAN. Could you advise us of the number of situations in which you have moved on it within the 30-day limit?

ATTORNEY GENERAL MITCHELL. I can't at this time, but I will be glad to provide you a record with respect to it.

I would not believe that they would be very many because of the investigative process that we have to go through, as you know, in order to file a lawsuit.

COMMISSIONER FREEMAN. On the point that you made, that you believe it is a local matter, we also received information, or testimony from the Director of the Census, concerning 12 metropolitan areas, in which the—there is in each of those 12 areas, a predominant white population surrounding in a noose, an inner-city. And this, of course, in every single one of these areas, the basis for the exclusion, is racial discrimination.

So that the question is, whether, when the local community, or all around this country, if they are permitted to get by with the policies

and practices of exclusion, how can we hope that they will then change and make it any different?

ATTORNEY GENERAL MITCHELL. Well, let me please correct what you repeated that I had said. I don't mean to imply that this is a State and local matter exclusively.

What I said was I would hope that the States and their localities—some of them, as you know, have State fair housing commissions and boards, that operate on a statewide basis—I would hope that there would be more of that so the Federal Government doesn't constantly have to be the policeman.

I am sure that there are many areas in this country where the disposition is not and would not be to carry out their open or fair housing policies. And that is why we do have the power in the Federal statute, and can move.

COMMISSIONER FREEMAN. Should not we request or require, however, that where a situation exists because of a Federal benefit—let me give you a hypothetical situation of a community that has a population of 25,000 people all living in homes that have—that are insured by FHA loans—that those people get together and vote to exclude the poor people—you see, they are there because of the Federal benefit, and they also use their power to exclude other persons from getting a Federal benefit. Is this a situation in which the Federal Government should take a hands off position?

ATTORNEY GENERAL MITCHELL. No, it is a situation that Federal Government should direct itself to, and I am sure through the administration of the programs over in HUD it will be, and has been directing itself to. The whole point of the President's statement was that all of this housing should be open to everybody and this is the goal that we are striving to accomplish.

COMMISSIONER FREEMAN. Are you suggesting, then, Mr. Mitchell, that perhaps in the future that the Administration will be looking at those communities and the votes of such municipalities that exclude?

ATTORNEY GENERAL MITCHELL. I am not quite certain as to what type of a vote you are talking about.

COMMISSIONER FREEMAN. Well, maybe a Black Jack situation that may be determined by somebody else not to be racial. They just don't want poor people.

ATTORNEY GENERAL MITCHELL. Well, the somebody else won't make the determination as far as we are concerned. We are the ones that make the determination as to whether we will file the cases or not.

COMMISSIONER FREEMAN. But would you look at whether those persons were themselves the beneficiaries of Federal money, or subsidies?

ATTORNEY GENERAL MITCHELL. Well, we might very well look at that to see if we could open up that housing. But whether we looked at it or not might have no bearing whatsoever on the legal position as distinguished from the factual situation that existed.

COMMISSIONER FREEMAN. Would a complaint have to be filed? This is what I am getting at.

ATTORNEY GENERAL MITCHELL. In what instance?

You see, what I said before, and I would like to re-emphasize, it is very hard to approach these questions on a theoretical basis when you are dealing with racial discrimination. So we would have to look at the circumstances and see what the action was, whether it be governmental or otherwise, to determine whether there was racial discrimination.

COMMISSIONER FREEMAN. Then do I understand you to say that unless you would make a determination that there is racial discrimination, that there would be no intervention by your office?

ATTORNEY GENERAL MITCHELL. We would have no basis for intervention.

COMMISSIONER FREEMAN. What about the equal protection clause of the 14th amendment?

ATTORNEY GENERAL MITCHELL. Well, if there is a violation of the equal protection clause, obviously we would address ourselves to it.

COMMISSIONER FREEMAN. Then you would also look for that?

ATTORNEY GENERAL MITCHELL. Yes, indeed.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. Mr. Secretary, just on this same vein, there has been some talk in recent days—the word lead agency is being used, possibly because it has appeared in some statements and some press conferences, and I would like to explore that just for a moment with respect to your position, and the questions that Mrs. Freeman has been asking.

Is there a lead agency through which a complaint reaches you that you respond to?

Do you initiate action yourself?

How do you see yourself in this housing context, as responding to violations?

ATTORNEY GENERAL MITCHELL. There are basically three areas in the administration of the programs by Secretary Romney and his Department. There are matters referred to us for consideration, which frequently lead to litigation.

A second area, of course, is where we have complaints from the public.

The third area is where we come upon these questions that present problems through our own resources and efforts. This is illustrated by some of the cases that are started by private plaintiffs; when we see that there is one of considerable public importance, we will intervene and provide the resources of the Justice Department to help in that area.

COMMISSIONER MITCHELL. In cases where HUD refers a matter to you, do you make the final determination as to whether you act on that?

ATTORNEY GENERAL MITCHELL. Whether we litigate or not, yes, sir. This, of course, is not only true as to these matters referred to us by HUD, but as to all other matters referred to us by Departments in the Government.

COMMISSIONER MITCHELL. In your opinion, is the average citizen who is likely to have possible reason for complaint by virtue of his being a member of a minority group or some other similar situation, is he sufficiently aware of the remedies available to him under the law?

Do we have a situation here where the people who are most likely to be affected, don't understand their recourse, and don't know how to reach you and your Agency?

ATTORNEY GENERAL MITCHELL. I would think that that might very well be true, but the situation is improving.

And let me point out that much of this material gets to us through these fair housing committees and commissions that exist around the country with which we have a continuing dialogue, and work closely. They are on the ground floor in the community when the evidence of racial discrimination arises. They are generally the first ones complainants go to, and, of course, with our liaison, we get a good deal of that information.

COMMISSIONER MITCHELL. Do you run into situations where there is a credit—form of credit discrimination. I notice the President made reference to credit discrimination in his recent statement. Have you run into instances where you could document credit discrimination?

ATTORNEY GENERAL MITCHELL. I don't doubt for a moment that it exists. Our history in it has not been very extensive.

According to my recollection, we have had three investigations where we could not make cases. We have 10 investigations in, I think, seven cities underway now. It is not an easy subject matter to document, but we are hopeful that the Federal Bureau of Investigation which is doing the investigation for us in these 10 particular cases will be more helpful.

I think the better way of getting at that credit discrimination, or at least some forms of it, is through the regulatory bodies that control these lending institutions, and I know that Secretary Romney has taken some action in that field.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Attorney General, I am a Southern representative on this Commission, and I wonder if you would be willing to comment on something that pertains to civil rights, but does not pertain to housing?

ATTORNEY GENERAL MITCHELL. If I have the answer to it, I will be delighted.

COMMISSIONER RANKIN. The first one is this:

Are we wrong down South, that is, I will call them liberals, who have tried to carry out the law insofar as civil rights are concerned, and they feel just a little bit let down as they did last fall, when some of them, through Court order, integrated their schools against considerable amount of local opposition. Another county right next to them did not do anything. Then, after they had taken this action, there was an announcement from Washington, they had another year, another 2 years in which to take the necessary action to integrate the school.

The liberal was put then—I mean this school superintendent in this

Georgia county, was put in a rather difficult situation with respect to his citizens.

Is that a bad situation, or does that exist all over the South, or not, what do you think?

ATTORNEY GENERAL MITCHELL. Well, let me, I believe, correct a statement that you have made. There has not, last year, or the year before, been said that there would be 2 years—

COMMISSIONER RANKIN. I know that. I extended the time.

ATTORNEY GENERAL MITCHELL. —to integrate the schools, because of the fact that the Court has said “now” on three separate occasions, so that we have to address it in that context.

I believe that one of the problems that have resulted in the South's acceptance of school desegregation was that it was not uniformly applied across the board in all areas. Frequently, because of the physical makeup and nature of the school districts, and sometimes because of other circumstances. But I firmly believe that in most of the cases, and by and large, when the Southern school officials have found out what the law is, the finality of it, they have been very helpful, very cooperative in bringing about desegregation of the schools, and by and large the communities have accepted it in very good spirits. Much more so than some of our litigation in other parts of the country, I might say.

COMMISSIONER RANKIN. That is what I noticed. I live in Durham, North Carolina, and the former black high school and the white high school are both integrated. We hold hearings around Northern cities, and I see no integration like that at all in any of the cities that we visit.

Are we that much ahead of the rest of the country down South?

ATTORNEY GENERAL MITCHELL. I believe that the figures will show that is the case, yes, sir.

COMMISSIONER RANKIN. And so I have a lot of sympathy with Senator Stennis and Senator Ribicoff when they made their statements to this effect. Don't you?

ATTORNEY GENERAL MITCHELL. I would hope that everybody in this country could be treated equally, North and South.

One of the problems we have, of course, is the controversial subject matter of *de jure* and *de facto*. It is a question of where and how you get the handle on it.

COMMISSIONER RANKIN. Is there a good handle that we can get hold of this, and whereby *de facto* segregation becomes *de jure* segregation? Is there any way we can do that?

ATTORNEY GENERAL MITCHELL. Nobody has found it yet, but I know that there are many people addressing themselves to the problem.

COMMISSIONER RANKIN. Mr. Dave Norman and some of them could possibly come up with some solution, couldn't they?

ATTORNEY GENERAL MITCHELL. I am sure they would like to if we had a basis for doing it.

COMMISSIONER RANKIN. Thank you.

CHAIRMAN HESBURGH. Mr. Attorney General, we have found in

these hearings, and we find it in almost every hearing that involves the number of different Departments in Government, that there is a great unevenness in the approach, at times the enthusiasm of the approach to Title VI enforcement—at least speaking of Title VI of the 1964 Act.

Do you think there is something that Justice could do to somewhat homogenize the process, or at least get out some standard forms that would apply to all suppliers, all builders, and all this and all that?

What I am getting at is that some kind of form, it might be ingenious as a task to write such a form legally viable, a form that would simply address itself to the fact that everyone that partakes of Federal money by benefit or by contract, or whatever way, commits himself or herself, or the organization involved, not to practice discrimination in any way.

I think that is the intent of the law. I think the problem is, has been, one of coordination. Dr. Horn keeps bringing this up with almost every witness, and I think he has got something.

Do you think of any way we might get a common approach across to all the Government agencies on Title VI?

ATTORNEY GENERAL MITCHELL. I would not believe so, Father, other than the fact that the law requires it, and of course the contracts and other documents require it. I think it is a matter of enforcement and policing by the different Departments and Agencies that do business in this field.

And as you may have noted in some of my statements in the past, the exercise of the rights of cutoff under Title VI are frequently very non-productive. And I firmly believe this in the field of school desegregation.

We would rather make them desegregate the schools and have the funds available for the children that need it, for their lunch programs and their books and brick and mortar or whatever else it may be.

I think the question has to be approached in a broader scale than just lower the boom once there is a technical violation.

CHAIRMAN HESBURGH. I was thinking more of the commercial operations.

For example, we find people who, on record, are discriminating in extension of credit, real estate brokers in making houses available, labor unions not having really open access to jobs and crafts. We have found all kinds of inequities and various kinds of brokers, assessors, people that go around checking on the value of property and so forth. And yet all these people, many of them are, one way or another, in the Federal employ, directly and indirectly, and the force to really monitor it is really very difficult, and it seems that almost nobody ever gets caught, or ever gets cut off, or debarred, or whatever.

It does seem to me that it is the kind of thing that doesn't have to be done very often, but just the fact that it is an imminent threat, and not a distant threat and that somehow there is a way of simply monitoring it and some way that everyone knows that it is there to be monitored so that almost everyone becomes a monitor of the freedom of the individual citizens of the country—exactly how to get at that legally, I don't know, except that you find some are doing it fairly well with the kinds

of forms they use, the kind of requirements they get before they make a contract. Others don't seem to care very much at all, others that do nothing, and it is that unevenness that—I know the Executive order asked the Justice to somehow coordinate this with the whole Government.

It must be a monumental task, but I was just curious if you had any thoughts on how that could be best done.

ATTORNEY GENERAL MITCHELL. Well, let me say that with respect to a situation of personal services, where somebody is involved in these activities, I should think you would cut it off quite directly and absolutely.

With respect to a program or a part thereof, where there is discrimination, to the extent that it can be done to hurt that individual as distinguished from the recipient of some of the benefits. I would do that directly, too.

We do have the problem, of course, of whether—since the statute says particular program or part thereof—if you find a municipality is discriminating over here in a housing project, you can't cut off its water grants. But I think that principle was established in that school case that we had down in Florida in Taylor County.

I think, Father, the most effective ways is to have people in the different departments charged with this assignment who have an interest in it and who have the authority to sort it out and do the right job. I think that is the best thing.

These are what, basically, our discussions with the different Departments assess. That is where the failure comes. So hopefully there will be improvements in that.

I know there is now in HUD an updating of the regulations that exist there, and I know from our discussions with Transportation that they are improving.

But it takes somebody with the ability and the clout addressing themselves to the problems.

CHAIRMAN HESBURGH. I think you are perfectly right, because the problem I find all the time is, everybody is looking for a scapegoat in this field. And they always want you to say the President is a scapegoat, or you are the scapegoat, or somebody else is.

ATTORNEY GENERAL MITCHELL. We, eventually, become the scapegoat.

CHAIRMAN HESBURGH. Right. So the point, I think, is terribly important is they say, how has this Administration been performing. I say you can't answer that yes, no, well, badly. You have to say that there are some parts that are going very well, and some that are going quite poorly, and some that are doing practically nothing, and some that are avoiding doing it, and some doing exactly what they have to, but not one inch more.

And I think you are perfectly right. It depends on the man on the job, and somehow, I think—I don't know how you get a handle on that, except to get the best people on the job, I suppose.

ATTORNEY GENERAL MITCHELL. And give them the authority.

CHAIRMAN HESBURGH. This is about the—I hate to think the number, but it must be a fairly large number in the row of housing hearings I have been through since this Commission began, and if I might, this is not in the form of a question, but more a little thinking out loud with you, sir, I think it may be helpful.

I find great progress, which is not really the end of the road by a long shot, but I go back to the day in our early hearings where the following things were true:

Where the Federal housing agency was—simply had no thought of civil rights, and it ran two programs, one for whites, one for blacks and followed even restrictive covenants, on occasion.

We found VA housing when they would foreclose on a white house, they would never even show up to a black veteran.

We found the worst kind of lists in real estate offices, dual lists almost everywhere we went.

We found many places where we went where a black person couldn't get any credit, and a white person got it immediately.

We found that we had no laws, no backup, no Executive order, no nothing.

Now that was back in the late '50s.

Today it seems to me that we have a different situation. We have a lot of laws, but we still have a lot of local resistance, and we have a fairly spotty performance at times on the administration of the laws.

It seems to me that we have got a great chance in this age to make one big jump forward in the whole housing agency, and I guess, for better or for worse, we are going to have to lean on you to give us the real oomph in this field.

I put it this way, that there are three things that really we found the obstacles to open housing in our times.

One you can't do anything about—none of us can except for ourselves, I guess, and that is the psychological obstacle of prejudice. Some people just don't want another person living next to them for all kinds of prejudicial reasons. And that, I guess, is the job of the schools and the churches and others to do something about that.

But I find that the younger generation has less of this than the older generation, so that is one benefit.

The second is really political, and we find that the country's political subdivisions are so mixed up, and there are so many ways things can be prevented by the interaction of the city and the suburb, and the township and the unincorporated village, and the incorporated village and we feel that somehow the Federal Government, the State government, and then all of these little subdivisions of various kinds interlocking and interacting, that at that point it gets very difficult and prejudices operating in an organizational way.

And it is my feeling that only the Federal Government can somehow break through that. I don't know how either by reorganization plans, or whatever.

The third thing is really financial, and I think the Federal Government can get at this both in the presentation of funds for decent hous-

ing, at least for the six million of our citizens who live in dilapidated and poor housing. So we are talking mostly about low-income and moderate-income housing.

That is why we are so happy to see this mentioned strongly in the President's statement.

The other, I think, is the strict monitoring of the agencies of financing, the mortgage agencies and the other agencies that bear on the construction industry and the possibility of catching up with the housing market.

But looking across the whole country in the human rights area, in the context of this hearing and a long, long list of hearings going over 14 years, it seems to me that we have had the breakthrough in voting. When this began there were some six million people who couldn't even register to vote. Many counties with a majority of Negroes in them, that not a single Negro or black registered to vote.

I think we have broken through that one, and it has been done by Federal action mainly.

I think in the public accommodations we have had a breakthrough there, and it has been done by Federal action. The law changed it almost in a 24-hour period. Not the prejudice—still problems.

The *de jure* dual housing system, I think there has been a breakthrough there. Still a lot of internal problems, but at least legally the breakthrough has been made.

And I would say that the great breakthrough we really need now is the housing breakthrough, because housing is so tied up with where you go to school, and if you are locked in a ghetto, you are locked in a ghetto school.

The schooling has so much to do with the employment. If you are locked in a ghetto school education, you are not going to be prepared to go to college or university and then get better employment to make more money to get a better house.

And the whole thing becomes a circular problem. And I think the most difficult part of the problem to get at, is not the school, or the employment, but the housing. And the housing is key to the solution of the other two, I believe, if this country is going to be an open society.

So, I, for one, rather than griping about the President's statement and trying to pick holes in it, I would like to say, let's take everything positive and strong in that statement and really push it, see if maybe in the next year or two, we can't make a big jump through on the open housing situation, the fair housing situation, decent housing in a decent neighborhood, which is the job, I think, of the Government for the pursuit of happiness of its people.

Now, my only question out of all this little bit of history is, I believe, that it is the Federal Government that can make the great breakthrough there, the way it did in voting, *de jure* school system, and the whole question of public accommodations.

I guess what I wanted to ask you is, do you agree with me that the Federal Government has to give the leadership and make the breakthrough?

ATTORNEY GENERAL MITCHELL. I think the Federal Government has to give the leadership in many parts of the country. I am sure you are well aware, Father, that we don't have the legal tools. It is not as simple as getting at a State publicly supported school where you have direct legal action that can be taken.

But I would like to make one other observation that I think is helpful in this area. I see more and more instances around the country like that group around Chicago and the ones in Dayton, where it is not only the education of the neighbors to live with each other, it is also the education of the public officials and others through community actions and pressures that are bringing them to consider these problems.

We probably get more action out of that, in a better way, than we will be trying to find ways of forcing people to do something that they legally will not be required to do.

CHAIRMAN HESBURGH. Well, I said yesterday to someone, that I thought the housing statement of the President was more carrot than stick, but Commissioner Mitchell here corrected me a little bit and said, at least somebody is being hit over the head with a carrot.

I think we have come to the end of our time.

We appreciate your coming, Mr. Attorney General, and your associates as well.

We are now going to adjourn until tomorrow morning at 9 o'clock. Thank you all very much.

(Whereupon, the meeting was recessed, to reconvene at 9 a.m., Thursday, June 17, 1971.)

U.S. COMMISSION ON CIVIL RIGHTS

THURSDAY, JUNE 17, 1971

VICE CHAIRMAN HORN. Ladies and gentlemen, may this final session of the United States Commission on Civil Rights come to order?

This morning the meeting will be conducted by Commissioner Mrs. Frankie M. Freeman. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Counsel, will you call the first witness?

MR. POWELL. Mr. John Stastny of the National Association of Home Builders.

(Whereupon, Mr. John Stastny, Mr. Nathaniel Rogg, and Mr. Herbert Colton were sworn by Commissioner Freeman and testified as follows:)

TESTIMONY OF MR. JOHN STASTNY, PRESIDENT, NATIONAL ASSOCIATION OF HOME BUILDERS OF THE UNITED STATES, CHICAGO, ILLINOIS; MR. NATHANIEL ROGG, EXECUTIVE VICE PRESIDENT, AND MR. HERBERT COLTON, GENERAL COUNSEL, WASHINGTON, D.C.

(Mr. Stastny's prepared Statement appears on p. 982.)

COMMISSIONER FREEMAN. Mr. Stastny, will you identify the persons with you?

MR. STASTNY. Yes. On my left is Dr. Nathaniel Rogg, who is the executive vice president of the National Association of Home Builders, and on my right is Mr. Herbert Colton, who is general counsel to the association.

COMMISSIONER FREEMAN. Mr. Powell?

MR. POWELL. Mr. Stastny, how long have you been president of the NAHB?

MR. STASTNY. Since January 20th of 1971.

MR. POWELL. Would you briefly describe the primary functions of your organization and its membership?

MR. STASTNY. The primary functions are education; representation of an industry which is trying to provide housing for the people of this country; the bringing together of people whose knowledge and experience, when shared, makes for better industry and a better production ability; the observance of legislation, which is proposed, and the taking of positions for or against such legislation, sometimes the promulgating of legislation which we feel is consistent with the provision of a good housing supply for all people; and, of course, the promulgation and support of the Code of Ethics, on which we base our—

MR. POWELL. What proportion of homes built in the past few years have been built by members of your organization?

MR. STASTNY. We estimate that well over two-thirds, and probably three-quarters, of the homes and apartments built by professionals are built by members of my association.

MR. POWELL. Has most of the new housing been built in suburban communities?

MR. STASTNY. I think so, sir.

MR. POWELL. What factors make the suburbs a better place to build new housing in than the central cities?

MR. STASTNY. Well, as a person who has built a good deal of housing in the central city, for one thing, it is easier. The land is there, the facility is there, the availability is there, the red tape is not as violent in the suburbs as in the central city, and, of course, the market is in the suburbs.

MR. POWELL. Has your membership been involved in the construction of low- and moderate-income housing, and federally subsidized housing?

MR. STASTNY. Well, first to the extent of being among the original proposers of many of the low- and moderate-income housing programs, which in the past, oh, decade or even less, have developed, such as the 221(d)(3) program, 221(d)(4) program and 236 and 235 programs—these—most of them resulted from a study which we prepared a number of years ago, when the only alternative to housing purchased in the open market, was public housing. There was no middle area for low- and moderate-income people.

And my association, I am pleased to say, was instrumental in bringing about the programs which exist today.

Then, of course, the performance, the working out of the red tape and the shakedown cruises in trying to make these programs effective and produce housing, and the actual production of the housing.

MR. POWELL. Has this low- and moderate-income housing also been predominantly located in the suburbs?

MR. STASTNY. No, I don't think so, sir.

MR. POWELL. The new housing, that is?

MR. STASTNY. I beg your pardon?

MR. POWELL. Has a good percentage of the new low- and moderate-income housing been located in the suburbs?

MR. STASTNY. I don't have any exact figures. I think a good bit of it has been in the suburbs, and I think for generally the same reasons that I cited earlier.

MR. POWELL. Mr. Stastny, with particular reference to your association's position concerning the Federal Rent Supplement Program, and its requirement for local approval, would you briefly describe how NAHB has been involved in promoting low- and moderate-income housing through Federal financial assistance?

MR. STASTNY. Well, as individuals, our builders throughout the country have faced housing authorities and zoning boards, and local and State authorities, and have done the best that they could to bring

about acceptance by a community or by a local government body of one or another kind of low- and moderate-income housing development.

You made specific reference to the Rent Supplement Program, and I don't think I fully understood your question.

MR. POWELL. Must there be local approval before the rent supplement program can be implemented in a particular community, and does your organization have a—

MR. STASTNY. Yes, and we have a number of times in our policy statements and by resolution, suggested that the workable program requirement be removed as a condition for the acceptance of low- or moderate -income housing development

MR. POWELL. You find that this requirement for local approval presents an obstacle to your program of—

MR. STASTNY. It has on many occasions, sir.

MR. POWELL. What percentage of the new housing is built by your membership?

MR. STASTNY. We estimate between two-thirds and 75 percent of the professionally built housing.

MR. POWELL. You have indicated that the requirement for local approval is an obstacle. Could you briefly describe any other obstacles that your membership experiences in attempting to build new housing in suburban communities?

MR. STASTNY. Yes, I can and if you will permit me, because as you know our statement to this Commission was submitted a number of days before the President's statement on the subject. I would like to present a supplementary statement which we have prepared which deals with the question that you have just raised, and ask that it be included in the remarks that we have filed.

MR. POWELL. The statement that you have presented, I request that that be entered in the record at this time.

COMMISSIONER FREEMAN. It will be received.

(Whereupon, the document referred to was marked Exhibit No. 42 and received in evidence.)

MR. STASTNY. Now, you are talking about the statement that we submitted before today?

MR. POWELL. That is right. And, could you summarize your views? We would like to—

MR. STASTNY. Yes, I do have it very briefly summarized, if you will permit me.

The President's delineation of national housing policy, together with the ensuing Administration actions, we feel represents a long step forward in the efforts to end racial discrimination in housing.

While the President's definition and explanation of that policy stops short of directing active use of all available Federal means of ending such discrimination, subsequent actions of the Department of Housing and Urban Development, Department of Justice, and the General Services Administration are encouraging to us.

The President, however, drew a line, between "racial discrimination" and "economic discrimination" in the application of the Admini-

istration's policy, and therein lies the problem. All too often, they are indistinguishable. In the ultimate sense, there is the question of why they should be distinguished. The basic result of the use of either is to deny a class of citizenry—low- and moderate-income families, black and white—access to decent housing and environments.

We believe that unless the increasing problem of economic discrimination is met determinedly and forcefully, it will not be possible to produce the necessary homes and apartments for families of low- and moderate-means, whether white or black.

Now this position has been made in my statement submitted heretofore to the Commission, which you have entered into the record.

Fewer than 50 years ago, zoning was held constitutional to the extent that it was reasonable in the promoting of the health, safety, and welfare of the residents of a community.

It is our view that now, in far too many cases, zoning is being used to protect the narrow, self-interest of a particular community without regard to the health, safety, and welfare of a community, and the Nation as a whole, and, frequently, in contradiction to it. When it is used this way, a situation develops in which it is possible for local communities to frustrate national housing goals.

The problem of economic discrimination by zoning is, in our opinion, of fundamental and overwhelming importance; it can only be solved by positive leadership—Federal, State, and local; public and private.

This, however, does not—excuse me—this, however, does, indeed, represent a formidable task and, as the President has said, no single set of rigid criteria can be laid down that will fit a wide variety of local situations. As I have said, therefore, we are immensely encouraged by the President's statement that racial discrimination will not be tolerated, and that the Department of Justice and the Department of Housing and Urban Development have been developing and elaborating a wide ranging program aimed at creating equal opportunity, equal housing opportunity.

I want to take this opportunity to compliment this Commission on the work that you have done in providing the opportunity for us to be here to talk to you.

MR. POWELL. You have indicated that economic discrimination also is a problem in your efforts.

Are you familiar with the Dayton Plan which provides that low- and moderate-income housing be provided on a regional basis with all of the local jurisdictions taking a share of the housing needs of the region?

MR. STASTNY. Yes, that is the voluntary plan which developed in the Dayton area, is that right?

MR. POWELL. That is correct.

MR. STASTNY. Yes, I am familiar with it.

MR. POWELL. Does your association favor this kind of approach in solving this problem?

MR. STASTNY. We do, indeed.

MR. POWELL. Has your association been involved in the activities to encourage areas to adopt regional plans like the Miami Valley Plan?

MR. STASTNY. Yes, sir. Our association which is made up of something over 54,000 members, some of them builders, some of them associates and suppliers, particularly the builder members, have been involved in many, many efforts at the local level, at the county and regional levels in bringing about understanding and acceptance of the need for planning of this kind.

Nationally, our association has gone on record with positions which have proposed that this is an important way for us to go.

MR. POWELL. Have there been any favorable results produced as a result of your activities?

MR. STASTNY. Not enough, sir.

The Miami Valley thing is great, as we see it, but we think there is room for a great deal more improvement.

MR. POWELL. What do you think your association could do to help overcome the opposition to this kind of regional planning?

MR. STASTNY. Hang in there and work harder.

MR. POWELL. In view of your concern with these problems, does your association have a position on the proposed HUD Guidelines on Nondiscrimination in Advertising and Affirmative Marketing Guidelines?

MR. STASTNY. We have not taken the matter up formally in the process that we have for establishing policy, but we have no objection to the guidelines that have been promulgated.

MR. POWELL. You have mentioned that your association is involved in taking positions on public questions and often takes positions before congressional committees regarding these questions.

MR. STASTNY. Yes, sir.

MR. POWELL. How do you account for the fact that NAHB's recent Annual Policy Statements and in its program for its recent annual convention, there was no mention of homebuilders responsibilities under the Fair Housing Law?

MR. STASTNY. We have historically been involved in the promulgation and encouraging publicly, not only our own membership, which is committed to the support and the enactment of the inferences of the Fair Housing Law, but in calling upon other members of the housing community, the other professionals involved, the financial community to come with us and try to do the job.

If there was no specific reference in that particular year's policy statement that you are speaking of, I suspect if you go back a few years you may find specific reference to it.

I think in our 1968 policy statement, there was clear -cut reference to our support for it.

MR. POWELL. Did your association support the enactment of Title VIII of the 1968 Civil Rights Act?

MR. STASTNY. Is this the one that we did unanimously?

Yes, we did, sir, by unanimous resolution at a time when we felt it necessary to call upon the other members of the community in which we exist attempting to house the people of this Nation.

MR. POWELL. I want to pay particular attention to the period before

the act was passed.

Did you support enactment of Title VIII before it was passed?

Did you help educate the public and the Congress to the need for the passage of this important law?

MR. STASTNY. I don't have a personal specific memory of this, but knowing the attitudes of myself and the people with whom I have worked for many years in NAHB, I suspect that we did support the enactment of that act.

MR. POWELL. Now you have mentioned the problem of building in the suburbs, and racial discrimination is still a very important problem. What has your association done to brief its members on their responsibilities under Title VIII?

MR. STASTNY. I think the publishing and the making knowledgeable of our membership, the formation of policy, which is included in my statement to you, of the homebuilders to abide by the law and to encourage all sincerely concerned with housing the American people, to join with us to the end that we attain our basic objective of a decent, safe, and suitable environment for all the families in America; in the many efforts that we have made at the local levels as builders, trying to operate in communities; and in the function of our committees, which have dealt with some of the very, very strenuous problems and constraints with which we have had to deal historically in this housing business.

Constraints of not only zoning, but codes, which frequently unnecessarily raise the cost of housing, and in this way defeat some of the production that can be attained in housing.

In the area of labor, where we have frequently regretted the fact that opportunities for employment in the construction industry, housing especially, are not made more available to members of minority races, because in construction, and especially in housing, lies an exceptional opportunity for people to not only attain in a reasonably short time, a high earning capacity, but also to enter business, by one of the shortest routes that I know. And it is not always easy, because it is a highly competitive business. But my grandfather came to this country from Central Europe a long time ago, and was able because he had a background in construction, was able to fight his way out of his particular ghetto at his time.

My father found my business, a very—the business in which I am presently—one of great opportunity, and without an enormous amount of education. As a matter of fact, without graduating from primary school, was able to achieve a good deal of success.

And, unfortunately, the depression wiped him out. And so when I came of age, again, without a great deal of education and without a great deal of formal training, but with a background and with an understanding of construction and an ability, and a good name that my father and my grandfather had left, I was able to build my own business, beginning with a borrowed thousand dollars, into a business which has been good to me.

MR. POWELL. Mr. Stastny, with respect to this regional approach, is

there something more the Federal Government could do?

Could the Federal Government design its programs so as to make it that in order for a housing development to qualify for Federal assistance, it would have to be part of a plan which would make the provision for low- and moderate-income housing on a regional basis?

If that were made a requirement for a housing development, or a community project to qualify for Federal assistance, do you think that would be effective?

MR. STASTNY. I am afraid that during a part of your question, I was being given some advice here, and I was trying to look at a note here that—

MR. POWELL. Could the Federal Government design its programs so as to make the regional approach to the provision of low- and moderate-income housing more effective?

For example, if the laws were such that in order to qualify for Federal assistance a building development or a community project would have to be part of a plan which made provisions for low- and moderate-income housing, and no Federal assistance would be given unless that were true, would that be helpful?

MR. STASTNY. It would certainly bring about the production of more low- and moderate-income housing.

MR. POWELL. No further questions, Mr. Chairman.

MR. STASTNY. May I add that the Federal Government could involve itself in more activities such as the one which we were involved in in 1962 when we cooperated with the White House in producing a special film which had a special message from President Kennedy, explaining the Executive order which he issued in 1962 on equal opportunities in housing, and urging the cooperation of our entire industry involved in this.

I think that in the area of the housing goals which we have established by law, the Congress in 1968 established these goals. I think that in establishment and an acceptance of these goals at the local level, at the county and at the State levels, would be helpful, and would be consistent with the regional concept that you describe.

MR. POWELL. No further questions, Madam Chairman. Thank you.

COMMISSIONER FREEMAN. Commissioner Mitchell, do you have questions?

COMMISSIONER MITCHELL. Yes, Madam Chairman.

Mr. Stastny, your statement makes reference to obsolete building codes, and suggests that homebuilders could provide either better houses, or less expensive houses for people who need those kinds of houses. Those codes were changed. Would you care to comment on what kinds of changes you would like to see made?

MR. STASTNY. Yes, sir.

My industry has helped to develop in many cases, and has applauded the availability of advancements in the technology which we use in the construction of houses and apartments, and yet, all too frequently, on one basis or another, we are not permitted to use a material because of a specifications code which may have been drafted 50

years before, or 20 years before.

COMMISSIONER MITCHELL. How do you feel about prefabricated houses?

MR. STASTNY. I think they are fine if they meet the test of the marketplace.

If they bring housing to the person who is going to live in it at a cost lower than the house which is being fabricated on the site, then I think they are great.

I want to point out to you though, that since the end of World War II, my industry has reduced the number of onsite hours in the production of housing from something over 40 percent at that period, to about 18 percent today. This doesn't say that less labor goes into the production of housing from something over 40 percent at that period to about 18 of components which we use.

COMMISSIONER MITCHELL. You are still not being very specific. When you say—

MR. STASTNY. All right. I will be specific.

How about plastic pipe, for example? Plastic pipe is a good example. For a long time we had to fight to get copper tubing accepted in some of the communities in which we build.

COMMISSIONER MITCHELL. What is the objection to plastic pipe?

MR. STASTNY. Well, the objection to plastic pipe has been principally carried on by groups such as the Cast Iron Pipe Institute who have a vested interest in opposing plastic pipe, I suppose.

But more unfortunately, by code authorities at the local level, and without more firm direction from the State or national level who simply say our code requires thus and so, and therefore you will not use anything but thus and so.

In the case of copper tubing, it did not require special threading and special corking and caulking, and didn't require some of the make-work practices that hard pipe required.

Romex wiring, for example, which would greatly reduce the cost of housing in my area, where we have still got to string wiring through hard pipe which is bent and fitted and really—

COMMISSIONER MITCHELL. What do you do as an association, to seek a change in those codes?

MR. STASTNY. Well, we have committees which have sat, which have analyzed the codes and the costs that they have added to the housing we are producing. We have a research institute which has tested new materials and new systems.

We have, in some cases, been effective in reducing the cost of housing by proving that some of the systems historically required by the FHA, for example, the bridging which used to be required in flooring, but which was proven by us to have no value at all, only adding cost, was removed after we proved this. This is the kind of effort we make.

COMMISSIONER MITCHELL. Do you get any help from the unions in this?

MR. STASTNY. We may have, at times, but I have explained to you some of my frustrations which have originated from the union basis.

COMMISSIONER MITCHELL. Are the unions in your industry becoming any more susceptible to integration than they were in the past?

MR. STASTNY. Not enough.

COMMISSIONER MITCHELL. Do you think that is a deliberate act on the part of the unions?

MR. STASTNY. I don't think that I want to judge this, but I would simply point out to you that I think it is unfortunate that we have to have a Philadelphia Plan and Chicago Plans.

COMMISSIONER MITCHELL. You mean you have no opinion, or you don't want to express an opinion?

MR. STASTNY. Yes. It is my personal opinion that there has been, unfortunately, an exclusion of minorities from entry into the unions.

COMMISSIONER MITCHELL. That is not so of your association, though, right?

MR. STASTNY. It certainly is not.

COMMISSIONER MITCHELL. As you know, few industries in this country are more favored by the Federal Government than the building industry.

The VA, the FHA, the whole concept of tax benefits for someone who owns a home, and that is a highly selective benefit, which is not always available to others, all work to the benefit of the home building industry.

I should think that every aspect of it would be under intense scrutiny at all times with respect to its habits in the matter of integration and low-cost and middle-income housing.

MR. STASTNY. Let me suggest that my industry provides one of the basic human needs of man, and the primacy of these human needs is important.

COMMISSIONER MITCHELL. My grandfather was in the clothing business, and a pair of pants is a basic human need, but there is no tax exemption for them.

MR. STASTNY. That is clothing. You are clothing, and I am shelter, and there is food, and these are prime human needs.

Now, the agencies that you referred to, the FHA and these tax agencies and so forth, the benefits of these agencies are delivered to the people who occupy the housing.

And while there are advantages that the industry enjoys delivering to the people, these are benefits designed by this Government for those people, and they really are not designed for the industry.

COMMISSIONER MITCHELL. Well, I am not sure that I see the relevance of that with respect to the industry's ability to benefit from Government programs. The American people might well find an alternative route for benefiting from Federal interest in housing for minorities and for other segments of the population.

Now, let me ask you: it has been suggested that one of the ultimate results of Federal encouragement of broad-based housing of the kind we occasionally talk about, has been the development of future ghettos, future slums, and that a great deal of the housing the taxpayers have paid for in a desperate effort to alleviate housing situations is just

replicating the agonies of the past decade or two from now. How do you feel about that?

MR. STASTNY. I think that there is unquestionably room for more improvement in the planning of the communities that we are building. I can recall—well, in addition to the reference to, oh, ticky tacky, the developments that were built immediately following World War II, but developments which were encumbered by zoning requirements for side yard setbacks and other antique, unnecessary requirements. Happily we are going to cluster zoning, and zero outlines and some other more advanced uses of land.

I can recall a builder relating to me, many years ago, at an NAHB meeting, and being kind of exciting about it, because I was involved in the same effort, relating to me that he had built two developments. It was at a time many years ago when the forces of the market were such that a development was either black or white, and the builder observed that he had built these two developments, and at this point, 5 years later, about the only difference that there was between the two developments, was that the one which was primarily occupied by black people seemed to be maintained a little better than the other one.

I think we have been in this struggle a long time, and have made honest and sincere efforts to bring about the aims this Commission is committed to. Many of us in our own ways.

COMMISSIONER MITCHELL. How do you feel about—do you have a feeling about the relative merits of individual houses versus high rise or apartment house building, as a device to produce low- to middle-income housing?

MR. STASTNY. Well, I think they both have their place. Certainly, an individual house is—or a town house, or a cluster house at ground level or garden apartment setup is far more desirable for a family than the high rise proposal.

On the other hand, for the elderly person the high rise is frequently more convenient, because it can be built with elevators, which, you know, are needed by some people for even one flight of stairs, and convenient to shopping and transportation, and so it is a matter of whom you serve.

COMMISSIONER MITCHELL. One of the things we talk about at these hearings is the problem of industry moving to the suburbs without adequate housing for its minority employees who are left behind in the city.

You certainly are in a city where that is a frequent occurrence. Do the homebuilders—has the Home Builders Association ever gone to the National Association of Manufacturers, or any industry association and suggested that they demand a joint project in which housing and the new industrial location would be jointly considered?

MR. STASTNY. We have—in the area in which I live and work, Chicago Metropolitan Area, we have joined with industrial organizations such as the Illinois Bell Telephone Company, who moved an enormous operation from another part of the country into our area, and have tried to work with them jointly in providing housing for all of the people who

would come in to work in that facility.

I think it is quite likely that our organization has been involved with other associations in attempting joint efforts to bring about this end, because it is one of our important goals.

COMMISSIONER MITCHELL. Let me ask you again, your statement you said back in the sixties, early sixties, your organization dedicated itself to the goal of higher standards of living for better living conditions for minority groups, for raising those standards.

We are about a decade from the time you made that statement. Would you say that those standards have measurably increased or improved?

MR. STASTNY. I say that—

COMMISSIONER MITCHELL. That that situation is better.

MR. STASTNY. I will certainly say that we have built a great deal of housing, as the opportunity has grown for us to build housing; especially for people of minority background, and it is encouraging.

We haven't done enough, any of us. I think the census figures that recently came out indicate that we have substantially improved the housing supply.

COMMISSIONER MITCHELL. Well, let's take an area you and I both know, which is the Chicago suburban area, and let's take the area north of Chicago, that is Wilmette, Winnetka, Kenilworth, Highland Park, Lake Forest, Skokie, can you tell me where, in the last decade, there have been major building developments in which large numbers of minority or low-income people have been attracted to that area?

MR. STASTNY. First of all, you have picked about a half a dozen of the high priced bedroom communities in the north area of Chicago. I am not personally familiar with them, I have not built in any of them, but I question whether there is any land available in any of them, or has been in the last decade.

Skokie, perhaps. As a matter of fact, in Skokie there has been. In Skokie, the first turnkey public housing development in Cook County was built. A good friend of mine, who has since died, Paul Friedman, was director of the county authority, and I think that Skokie probably has provided a good part of it. But Skokie is the only community in the list that you mentioned that I know where there might be land available.

COMMISSIONER MITCHELL. Can you think of others that might be good examples?

MR. STASTNY. Well, I think—you know—

COMMISSIONER MITCHELL. Well, let me put it this way, does the National Home Builders—

MR. STASTNY. How about Park Forest?

You know, one of our guys built that in the forties, in the early forties. And it was an integrated community from the very beginning, and is a very happily thriving community.

COMMISSIONER MITCHELL. Anything else like that since the forties?

MR. STASTNY. I think that Phil Klutznick, who was involved in the original Park Forest, is involved in such a community in the north and

one in the south.

Now I want to tell you this, during this past decade, during this past decade and with the incidence of the Executive order, and the attention that has been focused, and the education which has occurred in this area, and of the need for open housing, that I think any number of communities have been opened. You know, I can't at the moment pick a particular development or a particular community where they have achieved something. I think generally the situation has improved. Don't you?

COMMISSIONER MITCHELL. Well, Mr. Stastny, let me put it this way, and since this is relevant to what I said earlier, you are in a terribly favored industry regardless of whether it is a basic need of society. It is funded and favored in many ways by the people of the United States, in the end, the taxpayers.

Now this Commission sees the agony of the American minority public, and the American low-income public as it sits and studies problems of suburban access and the ability of these people to find homes.

When homebuilders come to us and say, we enthusiastically support federally supported programs for more homes, it is understandable that they are supporting Federal aid for the development of their own business. Now, if there is a noble implication to that, that is fine.

But when I ask you for real evidence, when I ask builders for real evidence, whether they are the National Association of Home Builders, or whether they are random Realtors we pick up in St. Louis or in Baltimore or in Washington, it always seems to me it is in the next town, or it happened in the forties, or there was that experimental project down the road somewhere.

We are far from making the dent we have to make. You are talking about a devotion on the part of builders that goes back at least a decade.

Now homebuilders of the United States, determined over a 10-year period to kick the door open and open the suburbs to everyone, to build new housing near burgeoning industry, and to deal with this problem, it seems to me might be reporting more success than I am hearing here today.

MR. STASTNY. Mr. Commissioner, our statement, I think clearly states what our product has been during the time that you describe. I think that the evidence of our efforts exists in the number of housing units which have been provided, or have been rehabilitated for the people of minority races. That is the evidence. We have built three-quarters of those houses, or rehabilitated three-quarters of those houses.

Your suggestion that ours is a highly favored, specially funded industry is simply incorrect, because, again, I call your attention to the fact that the programs accrue to the benefit of the people who are housed, and let me suggest that if you have travelled as I have in other parts of the world, and have looked at some of the socioeconomic systems that are being used in other countries for providing housing for their people, you will find that by comparison, no matter how you slice it, we are the

best housed country in the world.

And we are producing housing at the best possible price. Again, no matter how you slice it, in terms of the earning capacity of the person who is buying that housing or renting it, or in any comparison, principally because we are a highly competitive, free industry.

Now, I think that our best service to the people of this Nation who need housing, has been to survive—to survive—the kind of attacks that we have suffered for a long time. Attacks through the—in unwise and improvident exercise of the constraints under which we have worked, and the attacks which come about through the misunderstanding or misinformation about what our industry is doing or not doing.

Now, it is only quite recently that the Federal Government got involved in kicking the doors of the suburbs, or the communities—the inner-city for that matter—open, and yet you question my industry's efforts in the past decade. We got in there just as quickly as we could.

Let me tell you that long before the FHA would enter the area of Lawndale in Chicago—I think you are familiar with Lawndale—I was there trying to build new housing. FHA could not enter it, because their standards then required that the age of the neighborhood would just disqualify that particular area. And yet the community needed new housing.

I was part of an effort which tried to build the first new housing in that community for 30 years, because it was clearly needed. And we got conventional financing, and we had mixed reactions, and mixed success.

Fortunately, in succeeding years, the 221(d)(3) program was developed, and we concluded a program which took far too long, and cost a lot of money, using the 221(d)(3) facility, which was developed after that program.

We have done a great deal of this kind of work, many of us, all over the country.

COMMISSIONER MITCHELL. Mr. Stastny, if I can just have one final comment, the overwhelming majority of the people in this country live in segregated housing that was built by somebody. I am sure it was built by members, largely, of the National Association of Home Builders.

That does not suggest that you would not like to build other kinds of housing. But it does suggest that you just simply can't say, well, we are sorry we have to do this sort of thing.

At a time like this, this country is confronted with a housing problem and as its suburban areas grow, it is confronted with housing challenges of the kind that your organization and others are going to have to take more seriously.

MR. STASTNY. We are not saying what you say we say, Mr. Commissioner, and the overwhelming majority of the housing which is existing today was built before the National Association of Home Builders came into being.

But I think none of us is doing enough, clearly. None of us is doing enough. And I am speaking now of the citizens of this country, black

and white.

COMMISSIONER MITCHELL. Well, that is simply my point. Somewhere the Civil Rights Commission is supposed to make recommendations to the United States Government for solutions to problems of housing.

It seems to me that the Commission someday is going to have to sit down and say to itself: "Are the present incentives to home builders producing the kind of houses that the country wants?" If they aren't it may recommend that there be alternatives.

MR. STASTNY. I think you ought to worry about whether there is an adequate flow of funds into the housing, because this is one of the principal deterrents to the building and housing, and—you know, I could name a dozen others. But I am not sure they are germane to this.

COMMISSIONER FREEMAN. Mr. Stastny, you have said that your organization has 55,000 members, and that you have built from two-thirds to three-fourths of all of the homes.

You regretted the fact that there is lack of employment of racial minorities.

I would suggest to you, sir, that the homebuilder employs the worker and that you have a duty to do more than regret the fact that there is racial discrimination in employment in the home building industry.

MR. STASTNY. Well, we would like—I would like nothing better, Madam Commissioner, than to have the right, the opportunity to hire minority people whom, in my judgment, could be trained, and if there is not a union program available to that person, then he could be trained on my job. I just don't have that opportunity because of union domination in the area in which I work.

COMMISSIONER FREEMAN. Are you an employer?

MR. STASTNY. I beg your pardon?

COMMISSIONER FREEMAN. Do you have employees?

MR. STASTNY. This present day I don't, but I have in the past. I subcontract most of my construction work at this time.

COMMISSIONER FREEMAN. The total number of persons involved in a building would be, at the maximum, how many employees including all of the crafts?

MR. STASTNY. Depends on the kind of building, on the type of development.

COMMISSIONER FREEMAN. But it ranges—could you have a range?

MR. STASTNY. Sure. For purposes of picking a number, let's pick 20.

COMMISSIONER FREEMAN. You, as a builder, make the decision as to whether you are going to build on a particular location or not?

MR. STASTNY. Generally, yes.

COMMISSIONER FREEMAN. And you make the decision as to what kind of building you are going to construct?

MR. STASTNY. Sometimes it is the client for whom I work, but if it is a development which I am proposing, then I do that, decide.

COMMISSIONER FREEMAN. And you employ the people?

MR. STASTNY. If I happen to be the employer, if I happen to employ the trades, as I have in the past, I do. For some years, I have been

subcontracting in the trades to people who have been the prime employers.

COMMISSIONER FREEMAN. I would still suggest to you that you have a duty to more than regret.

MR. STASTNY. Oh, sure. I agree. And yet, you tell me, under the circumstances in which I work, how I can hire a person, if I am forbidden that opportunity by a union which has complete control over my operations?

And if that person in applying to the union finds the opportunity to be trained is not made available to him, or the opportunity to join, even if he has the skills, is not available to him?

COMMISSIONER FREEMAN. As a homebuilder, these 55,000 members are the beneficiaries of FHA-insured construction loans, are they not?

MR. STASTNY. We participate in a program, which again, FHA insures the mortgage of a house which is owned by an individual.

We are certainly involved in a program in which we are making a living, no question about it. And I think serving our country. But it is a program which is not designed solely for our benefit. It is designed for the people who need housing.

COMMISSIONER FREEMAN. We are suggesting to you that one of the best things that you could do, since racial discrimination is illegal, that there would seem to be no difficulty in complying with the law.

MR. STASTNY. We do comply.

COMMISSIONER FREEMAN. But if there is racial discrimination, and 55,000 members of the homebuilding industry have built these homes that exclude minorities from employment, and exclude minorities from occupancy, this is illegal.

MR. STASTNY. We—you know, I must ask you the question again, how can a person in my position, in the light of the union's refusal to allow a person who is not a member of that union to work, hire that person and provide employment for him?

COMMISSIONER FREEMAN. You make recommendations—have you had any consultation with any of the unions involved?

MR. STASTNY. Yes, yes, we—as a matter of fact, we are involved in some manpower training programs right now which are endeavoring to change the manpower supply. And some of them are specifically designed for access by minority people.

COMMISSIONER FREEMAN. Would you submit to this Commission, the reports of your efforts with respect to employment, with a breakdown with respect to the employment and membership of the homebuilders industry?

MR. STASTNY. I don't know—now the employment and membership of the homebuilders industry? I don't know that we have got the numbers.

COMMISSIONER FREEMAN. By race.

MR. STASTNY. I don't think that we have figures that could define this kind of thing.

COMMISSIONER FREEMAN. Could you try to get it for us?

MR. STASTNY. Yes.

Now the records that deal with our involvement in manpower training, are there. We are involved right now in about a million dollars worth of this kind of thing annually.

With respect to our membership, I just don't know. We are a confederation of local organizations, some 500 local organizations in all of the States. We don't have any records which determine whether people are black or white, or of any other minority.

COMMISSIONER FREEMAN. One final request, then, would you submit to this Commission the names of any localities that are less segregated today than they were 10 years ago, by reason of efforts of the Home Builders Association.

MR. STASTNY. Well, now, does that include efforts of men who are building, or companies who are building, and who are members of our organization?

COMMISSIONER FREEMAN. Yes.

MR. STASTNY. All right. I will do my best to assemble that information for you.

COMMISSIONER FREEMAN. Thank you.

Do any of the other Commissioners have any questions?

VICE CHAIRMAN HORN. I now have a question.

I would like to remind my colleagues, since we are now on the subject of union discrimination, that I had raised this question when we agreed on the witnesses for this hearing, that we ought to have members of the building trades before this Commission.

I must say that I don't think it is completely fair to query homebuilders and contractors on this subject without having the members of the building trades nationally and regionally and locally, come before us. And I was told at that time that we really weren't getting into this subject so much as the demography of movement between center city and the suburbs.

I would like to also remind my colleagues that I have asked for a study of union discrimination from my first day on the Commission. I am glad to say the Commission will finally do one in the coming fiscal year.

Now what I would like to have happen is have our General Counsel put, at this point, in the record, a legal memorandum as to what are the obligations under the National Labor Relations Act and related labor acts, of a contractor or a businessman, in terms of his control over the hiring of employees to assure that there is some minority representation.

We might consult with Mr. Fletcher on this, because the Philadelphia Plan is involved in this.

And I would like that memorandum to be shown to the members of the Home Builders, and if they have any additional comments to make, I would, for one, welcome your views in the record.

But I think one of the regrettable things here is that you really have very limited choice unless you want about 20 picket lines put up around your construction works, in terms of the membership of the various unions that are working on your particular projects.

And I think this is one of the regrettable aspects of how the whole

thing works in this country, in terms of giving decent job opportunities to people.

CHAIRMAN HESBURGH. Mr. Vice Chairman, I would like to associate myself with your concern about getting at the totality of the problem.

I would like also to ask in that memorandum that you are going to have done by the General Counsel, Mr. Powell, that some attention be given to what would happen if the Government took seriously its own regulations, and simply said that there will be no money given for any buildings of any kind, unless the people working on that building are not practicing discrimination.

In other words, the builder can't get the money for the building, unless the people building that building are integrated, and that in fact the contractor then has his hand strengthened, because he can say to the union, there is not going to be any work for the union unless you people come in here with an integrated work crew, because until I can guarantee that, I can't get the money to hire you.

I think it is high time the Government got serious about this. We have been going through this year in and year out.

I can remember talking about it 10 years ago in Cleveland, where there was about one plumber in the whole plumber's union in Cleveland, and the man in charge of the union whom we did have on the stand at that time, said it was none of his business.

I think it is very much his business if he wants to be employed.

COMMISSIONER MITCHELL. May I just ask whether you would further extend the instructions to the General Counsel to include in the same memorandum, the obligations of anybody who is benefiting from Federal funds, or building houses with Federal funds, to comply not only with union integration requirements, but with the general requirements of any Federal contractor with respect to the civil rights of those people who will occupy, purchase, or use the premises.

VICE CHAIRMAN HORN. Well, I would be delighted to, and I think what you are suggesting, Commissioner Mitchell, is that among competing priorities, as a matter of Federal policy adopted by Congress in pursuance of the Constitution, if you do get to a clash between national labor policy and national antidiscrimination policy, I think it would be our nonlegal judgment at this point that certainly the antidiscrimination policy ought to be supreme, when it came to a clash between two different policies like that.

COMMISSIONER MITCHELL. We are in complete agreement.

By the way, I would like to make it very clear that I am not attacking the housing industry because it happens to be here, but this is the nature of this whole inquiry, it has to do with housing and the way people live. And you cannot escape the association between builders and unions and houses.

CHAIRMAN HESBURGH. I think you also have to footnote at this point our most recent study of 235, 236, which proved without a shadow of a doubt that all of the housing of the suburbs, the great, great majority of it went to whites, and the fixed up old dilapidated housing in the ghettos went to blacks.

Now that is the way the law operated in fact and these places weren't built by men from Mars.

COMMISSIONER MITCHELL. And the people who bought the housing were steered there by the builders.

MR. STASTNY. Oh, no. I must object to that, sir. We operate in a marketplace, and we don't set the attitudes, or control the flow of people in the communities, and I am sure you are aware of that.

I think that in your concerns about manpower and its effect, the effect possibly of broader opportunities in entry into the construction industry, you ought to consider the fact that presently the economy is suffering seriously from a situation which exists in the construction industry because of, what in my opinion is a kind of monopoly, an artificial shortage of manpower. And as a result, workers in the construction industry are making demands that are far and beyond and above reason in too many instances, and which are too frequently used as goals by members of other industries, and in an economy which has been fighting inflation for a long time, it is unfortunate.

It is my opinion, that if a more sensible balance of manpower supply were achieved, that we would not only bring opportunities to the people who need them but serve the general economy.

COMMISSIONER FREEMAN. This economy, sir, suffers more from the consequences of racial discrimination than from any other problem that you have talked about.

MR. STASTNY. I think we are speaking to both problems.

COMMISSIONER FREEMAN. The General Counsel will prepare the memorandum, and for those questions that we have given to you for comment, they will be submitted.

Thank you very much. You are excused.

MR. STASTNY. Thank you very much.

(Whereupon, Mr. John Ligon, Mr. Jose Antonio Muniz, Mr. Armando Pereiras, and Mr. George Bowens were sworn by Commissioner Freeman and testified as follows:)

MR. POWELL. Mr. Resnick?

(Whereupon, Mr. Aaron Resnick was sworn by Commissioner Freeman and testified as follows:)

TESTIMONY OF MR. AARON RESNICK, GOSHEN, NEW YORK; MR. JOHN LIGON, PHILADELPHIA, PENNSYLVANIA; MR. JOSE ANTONIO MUNIZ, BRONX, NEW YORK; MR. ARMANDO PEREIRAS, NEW YORK, NEW YORK; AND MR. GEORGE BOWENS, NEWARK, NEW JERSEY

MR. POWELL. Madam Chairman, the witnesses have all been sworn, have they?

COMMISSIONER FREEMAN. Yes.

MR. POWELL. Would you each, please, state your name, address, and occupation, and would you also each state the location of your place of work?

MR. RESNICK. My name is Aaron Resnick, R.D. 2, Maple Avenue, Goshen, New York.

I am the president of Local 906, and I work for Ford Motor Company.

MR. BOWENS. George Bowens, 69 Farley Avenue, Newark, New Jersey. I work for Ford Motor Company, Mahwah, New Jersey.

MR. PEREIRAS. Armando Pereiras, 78 Post Avenue, New York, chairman of the Spanish Committee, working for Ford Motor Company, Mahwah, New Jersey.

MR. MUNIZ. My name is Jose Antonio Muniz. I work for Ford Motor Company. I live at 955 Evergreen Avenue, Bronx, New York.

MR. LIGON. My name is John Ligon. I live at 1523 North Allison Street, Philadelphia, Pennsylvania. I work for the Ford Motor Company, an officer with Local 906, UAW.

MR. POWELL. You have each indicated you work for Ford Motor Company.

Do you all work for the plant in Mahwah, New Jersey, is that correct?

ALL WITNESSES. That is true, yes.

MR. POWELL. Mr. Resnick, how long have you been an officer of the UAW local?

MR. RESNICK. Oh, a total of almost 6 years.

MR. POWELL. You are now president of that local?

MR. RESNICK. That is right.

MR. POWELL. Beginning with Mr. Resnick, would you each indicate how long you have worked for Ford Motor Company, how much you earn, and the size of your family.

MR. RESNICK. I have worked for Ford for 16 years. My regular earnings with Ford Motor Company have run currently at about \$10,000 a year. Did you ask for the size of my family?

MR. POWELL. Yes.

MR. RESNICK. There are four members in my family.

MR. BOWENS. I've worked for the Ford Motor Company for 4 years. There is three members within my family.

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MR. BOWENS. I've worked for the Ford Motor Company for 4 years. There is three members within my family.

MR. POWELL. How much do you earn?

MR. BOWENS. I earn \$8,000.

MR. PEREIRAS. I work for the Ford Motor Company for 11 years, and I make \$10,000 a year. And the size of my family is three members.

MR. MUNIZ. I work for the Ford Motor Company for 13 years, I make an average of over \$10,000 a year. There is six in my family.

MR. LIGON. I have been in Ford for a period of 28 years. My average yearly earnings is about \$9,000. I have four in the family.

MR. POWELL. Mr. Resnick, how many employees work at the Ford Assembly Plant at Mahwah?

MR. RESNICK. Currently there are 4,600.

MR. POWELL. Of these, approximately how many live in or near Mahwah, do you know?

MR. RESNICK. I don't know the precise number, but I think you could count the number of members who are hourly employees at the Mahwah Assembly Plant on your hands. The number that live in the town of Mahwah.

MR. POWELL. Mr. Resnick, the UAW has recently expressed concern about the zoning laws of the township of Mahwah with particular reference to the effect of those zoning laws in preventing members of the union from living in or near Mahwah.

Would you describe in general terms, that zoning and its effect with respect to the ability of members to live in or near the township?

And in doing so, you might want to make reference to the map of the township of Mahwah, which is behind you.

MR. RESNICK. I can see the map, but I am not certain that it is of any particular assistance.

As I am aware of the zoning laws in the town of Mahwah, the bulk of the land is zoned for 1 and 2 acre, one family occupancy. Less than 1 percent of the land area is available for multiple dwellings, and I believe much of it already is consumed.

MR. POWELL. Mr. Resnick, how does this affect the cost of housing in Mahwah?

MR. RESNICK. Well, since the advent of the Ford Motor Company Assembly Plant in Mahwah, and to the present time, the land has increased to a point where a 1 acre, average 1 acre lot costs about \$25,000, and this would then mean that minimum costs for new homes is somewhere in the area of \$50,000, perhaps \$75,000.

MR. POWELL. Mr. Resnick, if these zoning restrictions were abandoned, would the union be in a position to assist its membership in obtaining low- and moderate-income housing in and near the township Mahwah?

MR. RESNICK. The UAW has a housing corporation that is prepared to buy land and undertake the building of homes, and really what we are looking for, is say, rather than really high density housing, we are looking for homes for our members, and we think we can do it at a moderate rate, providing that the—some of the requirements, some of the zoning laws, are abandoned.

MR. POWELL. Mr. Resnick, did the Ford Motor Company recently conduct a survey of the employees at Mahwah, inquiring into the commuting distance, time, and cost with respect to traveling from their home to work?

MR. RESNICK. Yes, they did.

MR. POWELL. Do you have a copy of that survey?

MR. RESNICK. Yes, I have. I have it in my hand.

MR. POWELL. Madam Chairman, at this time I would like to have that survey entered into the record.

COMMISSIONER FREEMAN. It will be received.

(Whereupon, the document referred to was marked Exhibit No. 43 and received in evidence.)

MR. POWELL. Mr. Resnick, would you briefly describe the information contained in that survey and its conclusions?

MR. RESNICK. The survey was a mailed request for answers to all the—both salary and hourly employees of Ford Motor Company, some 5,200 or 5,300 people.

Responding was approximately 30 percent of that number.

Of the 30 percent, among the questions asked, two-thirds indicated that they would like to move into the area, and the average mileage of residency from the plant at the present time indicated by these people was approximately 25 miles.

MR. POWELL. Does the survey show that over 50 percent of the employees at this plant travel a round trip of more than 50 miles each day?

MR. RESNICK. Well, the survey was only responded to by 30 percent of the people.

MR. POWELL. Yes, of those that responded, does that show that over 50 percent of those that responded have to travel more than 50 miles round trip each day from home to work?

MR. RESNICK. Well, I would say it does, because the average mileage worked out in it was 25 miles, one way.

MR. POWELL. Mr. Resnick, how far do you commute round trip daily to work, and how much time does it take?

MR. RESNICK. Well, I have worked for 16 years, and in that time my average commuting distance was about 40 miles one way, and time allowed had to be in excess of 1 hour each way. That was well over 2 hours of allowed time to go to work.

MR. POWELL. Mr. Bowens, how much time do you take in commuting each way, and what is the distance?

MR. BOWENS. Well, it takes me about 35 minutes to 40 minutes to commute each way, and it is about 70 miles to 73 miles round trip each day, which also runs a little longer in the wintertime, when it is icy. It may take me 2 hours, maybe over an hour.

MR. POWELL. Mr. Pereiras?

MR. PEREIRAS. It takes me around 1 hour in the morning, coming to work. On the way home, it all depends on the traffic. Sometimes a little bit over 1 hour. In the wintertime, it all depends on how the roads is. If it is ice, it may take me 2 ½ hours, 2 hours.

MR. POWELL. Mr. Muniz, how much does it cost in commuting—Mr. Pereiras, rather, how much does it cost you in commuting?

MR. PEREIRAS. Well, first the gas costs me about \$13 or \$14 in gas. Now I have to pay a toll, it costs me \$1 in toll, because I have to go through the Washington Bridge, and that increases my car insurance, plus I have to put on a new set of tires every year. This is a lot of expenses.

MR. POWELL. Mr. Muniz, how far do you have to commute round trip, and how long does it take you?

MR. MUNIZ. Sixty eight miles every day, back and forth—34 each way.

MR. POWELL. Mr. Ligon?

MR. LIGON. Well, I have temporary lodging in a town close by, during the week. I commute on the weekends to my home in Philadelphia.

MR. POWELL. Mr. Ligon, you say you have worked at Ford Motor Company for over 28 years, and I take it you have been at the assembly plant in Mahwah for a number of years, also. Is that correct?

MR. LIGON. That is correct.

MR. POWELL. In your years there, have you found that these distances that the employees have to travel, particularly in winter months, are a safety hazard?

MR. LIGON. Extremely so.

MR. POWELL. Do they also have an impact on job security, and if so, would you describe that?

MR. LIGON. Sure.

Because of the hazardous condition in traveling, often the workers are late to work, and sometime they are prevented from getting to work at all. When this occurs, this is not taken under consideration by the company and, therefore, the workers are penalized, and in many instances, after a number of penalties, they are discharged.

MR. POWELL. There are approximately, Mr. Ligon or Mr. Resnick—there are approximately 5,000 employees at this Mahwah Plant, is that correct?

MR. LIGON. That is true.

MR. POWELL. Are these commuting distances a factor in the turnover rate? What is the turnover rate, approximately, at this plant?

MR. LIGON. I would say about 1,000 yearly.

MR. POWELL. Is this commuting distance a factor in that, also, in addition to job security?

MR. LIGON. Definitely so.

This comes about because of the inability to get to work on many occasions, the terminations and the frustration that many of the workers subject themselves to. They voluntarily quit their jobs.

MR. POWELL. Mr. Ligon, you are an officer in the UAW local as well as the local fair employment practices committee, are you not?

MR. LIGON. I am.

MR. POWELL. Have you attempted to find housing near your place of work, Mr. Ligon, and would you please describe these attempts?

MR. LIGON. In Mahwah, on several occasions, I—as a matter of fact, I once rented an apartment down in Mahwah, which was substandard. That was one of my reasons for leaving Mahwah, because there wasn't any apartments or homes available in the town of Mahwah.

In applying for apartments that were posted as vacant, I was denied, for one reason or another, the privilege to rent this apartment.

MR. POWELL. Do you feel that this difficulty was solely economic, or do you think that racial discrimination was involved?

MR. LIGON. Well, on those occasions it was purely racial, not economics.

MR. POWELL. Mr. Bowens, you are chairman of the union's local fair employment practices committee, are you not?

MR. BOWENS. Yes, sir.

MR. POWELL. Mr. Bowens, approximately what percentage of the plant's workers are black?

MR. BOWENS. I would say approximately 29 percent.

MR. POWELL. Mr. Bowens, what is the population of Mahwah?

MR. BOWENS. Roughly, about 10,000 people.

MR. POWELL. And to your knowledge, how many of these are black that live in Mahwah?

MR. BOWENS. Roughly about 380 or 388, somewhere around between there.

MR. POWELL. Was that three people or 3 percent?

MR. BOWENS. Well, 300 or 388 people, somewhere around there.

MR. POWELL. 380 blacks?

MR. BOWENS. Right.

MR. POWELL. Mr. Ligon, would you please describe the housing conditions of the few black families that do live in Mahwah?

MR. LIGON. They have, in Mahwah, an area that is considered to be a ghetto, and this is the only area where the black families live.

The housing conditions are substandard. Aside from that, the municipality does not maintain the streets as far as pavements, nor light. Another area—they are not supplied—they don't have city gas. They must acquire their own gas unit, propane, where in the other section of the city of Mahwah, the city does supply the gas, also they maintain the streets in good condition and the street and lights.

MR. POWELL. Mr. Pereiras, have you attempted to locate housing closer to work?

MR. PEREIRAS. Yes, for about 3 years.

MR. POWELL. Would you please describe those attempts?

MR. PEREIRAS. Well, the few times I try, you know, I find out that I could not afford to live in Mahwah because of the high price of the property, you know. So that discouraged me a little bit.

So I tried an apartment. So I running into another problem, you know. For example, my wife called one day, and the apartment was vacant. When I would show up, and I spoke, they told me it was—they make me—they don't say, you can't take the apartment, you know. They have already rented it.

MR. POWELL. Does your wife have a Spanish accent as you do?

MR. PEREIRAS. No, my wife talks better English than I. She has been in the United States for a long time.

MR. POWELL. And when your wife called, an apartment was available?

MR. PEREIRAS. Right.

MR. POWELL. But when you showed up—

MR. PEREIRAS. When I showed up and I spoke, that was the end.

MR. POWELL. Mr. Pereiras, you are chairman of the local Spanish-American Council, are you not?

MR. PEREIRAS. Yes, I am.

MR. POWELL. Are most of the council's members Puerto Rican and Cuban?

MR. PEREIRAS. The most—they are the majority.

MR. POWELL. Is there a significant percentage of workers at the plant who are Cuban and Puerto Rican?

MR. PEREIRAS. Right.

MR. POWELL. Have many of the Puerto Rican and Cuban workers experienced difficulties in obtaining housing in or near Mahwah?

MR. PEREIRAS. Well, they have, some of them, more problem than I, because some of them don't even speak English. But they have the same problem I have. Not a chance.

MR. POWELL. Mr. Muniz, have you faced situations similar to those described by Mr. Pereiras?

MR. MUNIZ. Yes, I did.

MR. POWELL. Would you please describe them?

MR. MUNIZ. I seen in the paper, an ad, about 8 years back, lots for sale, \$2,000, 100 by 100 by 75.

So my wife called. They were available. But when I got there, they wanted me to buy 50 lots.

MR. POWELL. Mr. Muniz, to your knowledge, do any Puerto Rican or Cuban families live in Mahwah?

MR. MUNIZ. Not that I know of.

MR. POWELL. Mr. Resnick, as union leader, have you had occasion to discuss the workers' housing problems with the plant management?

MR. RESNICK. Yes, I have.

MR. POWELL. Has the Ford Motor Company been cooperative with the union and with the workers in attempting to alleviate their housing problems?

MR. RESNICK. Well, they have been cooperative as far as speaking on the subject. But I have never seen, aside from this survey, and I am not certain what the intent was there, I have never seen that they actually did anything to alleviate the problem.

MR. POWELL. Mr. Resnick, what do you feel are the responsibilities of companies locating in the suburbs, with regard to housing needs of their workers?

MR. RESNICK. Well, companies particularly like ours, move from a metropolitan area. Ford Motor Company came from Edgewater, which is part of New York City Metropolitan Area, and the workers lived in fairly high density areas.

When they moved, they expanded, they brought with them the people from the Metropolitan New York Area, and hired people mostly from Upstate New York, New York City, and the Newark-Jersey City areas. All of these areas averaging approximately 35 miles distant from their new location.

Now at no time did the company ever make any effort to locate their people in the area where they moved their plant.

I have been with the company since they have been in Mahwah, and we are aware that they have done nothing during all this time to relocate their people.

MR. POWELL. You have indicated—we have had testimony that the population of Mahwah is 10,000, but is there still a lot of vacant land in Mahwah that could be zoned for moderately high density, and is this, say, is that a picture of the plant and the surrounding territory there?

Is there much vacant land in Mahwah that could be used for low- and moderate-income housing?

MR. RESNICK. To begin with, the land area, Mahwah is the largest township in Bergen County, and one of the largest townships in the State of New Jersey. Over 75 percent of their land is still vacant.

MR. POWELL. Of that 75 percent, how much of it is zoned for 1 acre or better?

MR. RESNICK. Over 50 percent is zoned 1 acre or 2 acres. I am not certain of all the zoning requirements. Twenty or 25 percent of it is zoned for additional industry, and right up to the present they still haven't made any provision for the workers to come along with the industry.

MR. POWELL. Is there any significant percentage of the land zoned for multiunit development of low- and moderate-income housing?

MR. RESNICK. Approximately 1 percent zoned with very little of it remaining available.

MR. POWELL. Mr. Resnick, have you discussed the workers' housing need with Mahwah civic groups?

MR. RESNICK. Yes, I have.

MR. POWELL. What has been the response of those groups with whom you have talked?

MR. RESNICK. Well, we have gotten a favorable response from one newly formed organization. However, generally the response has been antagonistic.

MR. POWELL. What kind of comments have you heard from these groups?

MR. RESNICK. Well, basically, the antagonism has been directed towards the possibility that by removing or agreeing to higher density zoning, that there would be a great influx of welfare people into the area.

And this seems to be the main area of opposition. However, the implication is very clear that their opposition is directed towards the absorption of any minority groups in the area.

MR. POWELL. Mr. Resnick, is it true that there are a number of other plants in Mahwah?

MR. RESNICK. Yes, there are. There has been a pretty large influx of good sized companies into the Mahwah area.

MR. POWELL. Do the members of these civic associations to whom you have talked think that they have a responsibility to provide housing for the people who work in these plants?

MR. RESNICK. Well, in my discussion with them they have never indicated that they felt they had a responsibility. In fact, they have been very ready to suggest that there are other areas that we could move to.

MR. POWELL. Notwithstanding the fact that this industry provides

taxes and supports the public services that are there in Mahwah?

MR. RESNICK. As a matter of fact, the industry is very kind to Mahwah, which has one of the lowest tax rates probably in the State.

As a matter of fact, just as a comparison, I live in a rural community with no services at all. I provide all the basic operating services for my home, and my tax rate is almost three times as high as the tax rate for an equivalent home in the Mahwah area.

MR. POWELL. Madam Chairman, I have no further questions, but I would request that the chart and picture be entered in the record at this point.

COMMISSIONER FREEMAN. They will be received.

MR. POWELL. Thank you.

(Whereupon, the documents referred to were marked Exhibits No. 44 and 45 and received in evidence.)

COMMISSIONER FREEMAN. Father Hesburgh, do you have any questions?

CHAIRMAN HESBURGH. Mr. Resnick, is there any place closer between Mahwah, say, and New York City or Jersey City, that might be developed for housing?

I mean, we have been concentrating on the possibilities of Mahwah, and obviously you have problems with 1 or 2 acre zoning, although all those houses it shows there look like they are about a fairly standard sized lot, the ones closest to you there. Wouldn't that be right?

MR. RESNICK. The picture shows homes that have been in existence for the most part for many years. This is prior, really, to the zoning, and I believe the zoning laws were instituted when industry started to come into the area.

CHAIRMAN HESBURGH. I see. Well, anyway, is there any place between that and New York City or Jersey City or Newark, that could be opened up for housing?

MR. RESNICK. I would feel possibly that there might be. I would feel rather strange to go into another community and say, you should accept our workers, before I try to get the area that is benefiting from these workers to accept them.

CHAIRMAN HESBURGH. Yes. Isn't that kind of backward for Mahwah to be passing up all the income it might be getting from these workers?

MR. RESNICK. Yes, it is.

CHAIRMAN HESBURGH.. Do you have any idea of the total tax that Ford Motor Company pays to the community?

MR. RESNICK. No. I know it is very substantial, but I have no idea of the amount.

CHAIRMAN HESBURGH. That should give them some leverage, shouldn't it?

MR. RESNICK. Ford Motor Company certainly has leverage and probably should have used it, but to my knowledge they are very reluctant to make any—to apply any pressure in behalf of this.

And, incidentally, they have a substantial interest in finding homes for their employees in the area, because of the problems of absentee-

ism, and turnover of employees.

Incidentally, the rate of turnover, and we have a count of hiring during '68, '69 and '70, and the average ran 2,000 a year.

CHAIRMAN HESBURGH. What about the salaried employees? Do they live in or around Mahwah?

MR. RESNICK. For the most part they live closer to the plant, although again, I think the total count of all employees hourly and salaried in the town of Mahwah is less than 50.

CHAIRMAN HESBURGH. Thank you.

COMMISSIONER FREEMAN. Dr. Horn?

VICE CHAIRMAN HORN. You have mentioned that 75 percent of the land in Mahwah is undeveloped, and that this is one of the largest townships in Bergen County.

Does Bergen County have a 1 and 2 acre zoning ordinance, or is the county land not subject to that? What sort of zoning exists in the county?

MR. RESNICK. My understanding of the zoning laws is that they are strictly a local zoning law. It is the town itself that has the zoning law. I know nothing of a county zoning law.

VICE CHAIRMAN HORN. What is the nearest town between Mahwah to Mahwah, within Bergen County? What is the mileage?

MR. RESNICK. The next town would be the town of Ramsay, which is almost free of any substantial industry.

VICE CHAIRMAN HORN. How far away is it?

MR. RESNICK. About 5 miles.

VICE CHAIRMAN HORN. About 5 miles.

Do you know if they have a 1 or 2 acre zoning law?

MR. RESNICK. I do not know.

VICE CHAIRMAN HORN. My query gets down to this. I wonder why we have to be limited, as sad as that situation is, and I would agree with you that they ought to open up housing for low- and moderate-income, as well as what is apparently extremely high level of income with a \$25,000 an acre price. But why do we have to be limited, either the company or the union, to simply the community, but why not develop our own housing adjacent in the county area, if it is not prohibitive.

MR. RESNICK. Well, I am aware that there is a great deal of resistance in all of the localities around the Mahwah area to any sort of housing programs that might absorb large numbers of—I don't know how to call them—outsiders, perhaps.

Most of them have very high cost land. I would guess the \$25,000 an acre would hold for perhaps 10 miles in any direction.

VICE CHAIRMAN HORN. Is housing a negotiable item under your annual, or every 3 year collective bargaining arrangements with Ford Motor Company?

MR. RESNICK. Really not, no. We would have no way we could bargain on housing.

VICE CHAIRMAN HORN. You could not make a demand that the company, as one of their fringe benefits, aid, say, various UAW pension

funds and investing in multifamily housing in Bergen County, even if it was not within the township? Couldn't you make this a demand for negotiation?

MR. RESNICK. I really doubt it.

We are dealing with the central Ford kind of issue. This would be a policy out of central Ford, and our powers of negotiation are strictly in matters that the local company could—well, something that they could give us. I don't believe that this is an area that they have the power to move.

VICE CHAIRMAN HORN. Are you saying the local union is limited by what your national leadership wants to negotiate on, and you really can't get local grievances into the bargaining picture?

MR. RESNICK. There certainly would be no area we could get local grievances into this area. Our grievances are limited by contract structure and it is pretty clearly defined, and this would not fall within any area of our contract.

VICE CHAIRMAN HORN. I notice in most negotiations nationwide in different industries, new types of demands are made as society evolves. We never thought of fringe benefits maybe 30 years ago, except perhaps a limited pension fund. We now think of dental care, psychiatric care, medical care, recreational facilities, a whole wide range of benefits that weren't thought of before.

Why hasn't housing been a subject for the employees whom the UAW represents, to make major demands on with the company?

MR. RESNICK. I would like to suggest that this is an area, certainly, for consideration on a national table. I don't see any place that we could accomplish it locally.

VICE CHAIRMAN HORN. Well, I must say I am sort of saddened that there can't be local negotiations to meet the peculiarities of the workers and the company in an area. It seems to me the members of a union ought to have a right to demand certain things that maybe are unique to their particular situation.

That is all, Madam Chairman.

COMMISSIONER FREEMAN. Chancellor Mitchell?

COMMISSIONER MITCHELL. Mr. Resnick, what do they make in this plant?

MR. RESNICK. We take the parts of a car, put them together, and drive a completed car off. The unit is all models of Ford.

COMMISSIONER MITCHELL. So you are a final assembly plant? Would you say that is—

MR. RESNICK. Yes, this is a final assembly plant.

COMMISSIONER MITCHELL. And your cars are painted and everything?

MR. RESNICK. Oh, yes. Complete body work, paint, the assembly, various parts that we make up right there.

COMMISSIONER MITCHELL. Do you make any vehicles that are painted in military colors, do you supply any vehicles for the military, the Army or—

MR. RESNICK. Yes, we do. We build trucks, also.

COMMISSIONER MITCHELL. So you are saying that Ford Motor Company is assembling vehicles to deliver to the military in a place where minority people can't find a place to live?

MR. RESNICK. That is correct.

COMMISSIONER MITCHELL. I have no further questions.

COMMISSIONER FREEMAN. Mr. Resnick, do you know whether the city of Mahwah actively recruited the relocation of this plant in its community?

MR. RESNICK. I really would only be able to tell you from hearsay, and I would prefer not to.

I was certainly not a party to it, and I am not aware what the arrangements were when the—when Ford Motor Company moved, but presumably, or almost surely, it was to an advantageous location.

COMMISSIONER FREEMAN. Well, Mr. Bowens, or any of the others, I would like to ask if you know if the employees have brought to the attention of the Ford Motor Company, the problems, and made a request outside the union, for their intervention to change the situation?

MR. BOWENS. I don't know of any that have made a request for intervention, but I know that constantly when employees are late and they are going off, and they explain that these are their problems, you know, being late for work due to traffic tieups, or a car breaks down, or flat tires, or bad roads, and the company turns a deaf ear. This has been brought to them through that means.

COMMISSIONER FREEMAN. Could we suggest to you that a memorandum to the company, the central Ford, or whatever that is, and wherever it is, outlining in detail the problem which you have encountered, ought to be submitted, and if you do so, we would be happy to receive a copy of such memorandum.

MR. BOWENS. Yes, you could.

COMMISSIONER FREEMAN. Thank you, gentlemen.

I am sorry, Mr. Glickstein has questions.

MR. GLICKSTEIN. Mr. Bowens, if housing were available near the plant, would you be interested in moving from Newark to an area nearer to the plant?

MR. BOWENS. At one time I was, but now I plan to get further education, so it would be an inconvenience now, you know, of going back to school for my education.

MR. GLICKSTEIN. But, if that weren't your situation, you would be interested?

MR. BOWENS. I would definitely move closer.

MR. GLICKSTEIN. Some persons have raised questions about the efforts that some people are making to open up suburban communities for occupancy by members of minority groups, and they have said that black people really like to live in the city, and if you built houses in the suburbs, that they would continue to remain in the city. I take it that you don't agree with that position?

MR. BOWENS. I disagree with that wholeheartedly, because I feel that black people like to live wherever housing is available that they

could afford housing in that area.

They don't like to be confined, because they like fresh air, too, move out to the suburbs, have a back yard, you know, so they can have a good time.

MR. GLICKSTEIN. Thank you.

COMMISSIONER FREEMAN. Do any of the other Commissioners have questions?

If not, thank you gentlemen, you may be excused.

This hearing will be in recess for 15 minutes.

CHAIRMAN HESBURGH. On behalf of the whole Commission of Civil Rights, I would like to thank Secretary Hardin, who has made this hall available for our meeting the past 4 days. It has been one of the most convenient and agreeable places we have had in our many meetings across the country in various Government facilities.

We also want to thank Mr. Hardin's staff. I will mention them by name in my closing statement, but many of them have been extremely cordial and extremely efficient, and we would not have had as good a hearing as we have had without their help. And on behalf of the Commission, I do want to thank you, Secretary Hardin, and I will be sending you a little note to this effect.

COMMISSIONER FREEMAN. Thank you, Mr. Chairman.

This hearing is now in session. Mr. Counsel, will you call the next witnesses.

MR. GROSS. The next witnesses are seated at the witness table, Mr. Stoner and Mr. Chandler.

(Whereupon, Mr. Richard B. Stoner and Mr. Marvin Chandler, were sworn by Commissioner Freeman and testified as follows:)

TESTIMONY OF MR. MARVIN CHANDLER, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, NORTHERN ILLINOIS GAS COMPANY AND PRESIDENT, METROPOLITAN HOUSING DEVELOPMENT CORPORATION, AURORA, ILLINOIS AND MR. RICHARD B. STONER, VICE CHAIRMAN, CUMMINS ENGINE COMPANY, COLUMBUS, INDIANA.

MR. GROSS. Madam Chairman, I have before me an item relating to previous testimony, a letter from Mr. G. E. Rittenhouse, which he requests be placed in the record.

With your permission, I would like to insert that in the record at this point.

COMMISSIONER FREEMAN. It will be received.

(Whereupon, the document referred to was marked Exhibit No. 46 and received in evidence.)

MR. GROSS. Gentlemen, will you please each state your name and present employment for the record?

MR. CHANDLER. My name is Marvin Chandler. I am chairman of the executive committee as of last Monday. Prior to that, chairman, chief executive officer of Northern Illinois Gas Company, Aurora, Illinois.

MR. STONER. My name is Richard B. Stoner. I am vice chairman

of the board, Cummins Engine Company, Columbus, Indiana.

MR. GROSS. Mr. Chandler, would you kindly describe the operations of Northern Illinois Gas Company including the number and kinds of employees it has and over what area they are distributed.

MR. CHANDLER. Yes.

We are a gas distributor, a distributor of natural gas, in about the northern third of the State of Illinois. We serve most of the northern part of the State except the area within the city of Chicago and a small strip along the North Shore.

We have over a million customers, and 17,000 square miles of territory, and a population of some four million people. We are the sixth largest gas distributor in the country.

MR. GROSS. Just very briefly, what kind of operations do your employees perform?

MR. CHANDLER. We have 3,100 employees, of whom something over 800 are management and the balance are clerical and physical workers, all unionized. They work in the general office, mostly clerical, staff and management functions, about 600 or 700, and then the rest are spread over the area in some seven outlying division headquarters.

They are engaged not only in clerical, but also in construction work, laying of pipelines and in appliance service work, calling on customers' homes to repair appliances, change meters and the like.

So there is a balance of physical and clerical work.

MR. GROSS. What proportion of your employees are members of minority groups?

MR. CHANDLER. Five percent, which is about, considerably more than, the population proportion of the area.

I might say, just to orient a little bit, because the northern third of Illinois sounds pretty comprehensive, about 80 percent of our business and operations and so forth are within 40 miles of Chicago. We start at the city limits and move out. And, of course, that is where the great mass of the whole operation is.

MR. GROSS. What proportion of your employees would be concentrated in the area to which you just referred?

MR. CHANDLER. Probably something similar, 80 percent, or more.

MR. GROSS. In terms of your efforts to increase minority employment, have housing patterns in the area where you are active been a problem in this effort?

MR. CHANDLER. Well, they are a problem. Of course, first it is a problem to find minority people, but we began a diligent effort along that line about 1967, and now about a quarter to a third of the traffic through personnel department seeking jobs are minority.

In terms of housing, it is likewise something of a problem, and we do what we can to assist them in that.

MR. GROSS. When you say it is something of a problem, could you expand on that somewhat?

MR. CHANDLER. Well, it is almost impossible to recruit employees from the city of Chicago, where the greatest minority numbers are to come out to work in the suburbs, unless they can find housing compati-

ble with their income. And that is difficult.

It also has posed a problem for management employees, whom we have recruited from predominantly Negro colleges and this sort, but we work very hard with them to solve that problem and we have been successful.

MR. GROSS. This lack of low- to moderate-income housing in the area of your employment has, in your view, restricted the amount of recruiting that it would be feasible for you to do in an area like the city of Chicago where the minorities are concentrated?

MR. CHANDLER. Yes.

MR. GROSS. Can you describe what—again referring to this lack of low- to moderate-income housing—do you feel that that has had, is having an effect on the economic development of the area which your company serves?

MR. CHANDLER. Yes, I am very concerned about that. I am probably more concerned about that than I am about our own particular situation, because we are finding enough minority people in the area now, so that a very sizable proportion of all our new hires, 65 percent of the first quarter of this year, are from minorities.

But we are not hiring very many people. We are not expanding. In fact, we have fewer employees now than we had 10 years ago, when we were doing much less business. But we have been able to improve productivity substantially.

But our business rises or falls with the economy of the area we serve, the suburban area around the city of Chicago. And that is where industry is coming. It is coming in great quantities. But, during the last 10 years, about 75 percent of all the new plants built in the total metropolitan area have been built in the suburbs rather than in the city. In 1970, that figure was 84 percent of all the new plant construction.

There are many moveouts from the city. We have 200 to 300 new plants built in our area every year, and a quarter to, approaching a half of those, are companies moving out from the cities because either they have outgrown their locality, their facilities there, or they have become obsolete from old age, or they don't like the quality of the labor force. I don't know all the reasons, but we get a great many moveouts of plants from the city.

And unless there can be a labor force to keep maintaining those plants, provide the work force, I am worried about the future of the economics of the area, and our business depends on the continued growth of the area.

So we have a very selfish, as well as a social conscience, reason for wanting to see low- and moderate-incomes in the suburban areas, so the workers can follow the plants.

The unemployment in the suburban area is—well, in the city is 10 percent or more higher than it is in the suburban area.

MR. GROSS. Do you feel that the lack of low- to moderate-income housing is having a present impact on the employers, either in terms of a pinch that they are now feeling, or is it distorting the economic development in that area now?

MR. CHANDLER. Well, not right now, probably because of the recession. But everyone's operations are down a little bit. But a couple of years ago, there was a real pinch. Almost every plant you drove by had a sign outside with two or three or four categories of job openings, seeking people.

And a number of the employers that have worked—have moved out, have told me of the difficulties they had in keeping their people, even when they make a real effort in providing buses, providing reverse transportation. It is a long haul from the South Side of Chicago—an hour, hour and a half of reverse commuting. It is expensive and people may, workers may do it for a while, but after 2 or 3 or 4 or 6 months, they have had enough. Even if they are driving their own cars, it is a long drive, and expensive drive. Turnover gets to be quite high, and absenteeism is a problem.

MR. GROSS. The fact that the employers in this area have moved to this area, felt this pinch, does that translate itself into effective pressure for additional low- to moderate-income housing in the area, or does this not produce such an effect?

MR. CHANDLER. Well, I think it has.

Many of the plants that moved out are small companies that find it hard to take individual action. But the major companies in the Chicago area do recognize the problem and have coalesced to try to do something about it. That is where my other hat comes in.

MR. GROSS. Right.

You are president of the Metropolitan Housing Development Corporation?

MR. CHANDLER. Yes.

MR. GROSS. I think that is an affiliate of the Leadership Council, am I correct?

MR. CHANDLER. That was formed by the Leadership Council for Metropolitan Open Communities.

MR. GROSS. Just as a predicate for describing the Metropolitan Housing Development Corporation, which we can abbreviate MHDC in the best Washington tradition, can you describe briefly the Leadership Council?

MR. CHANDLER. Leadership Council?

MR. GROSS. Please.

MR. CHANDLER. Leadership Council was formed about 1965 after Martin Luther King made a march into the suburbs to dramatize the lack of open housing in the suburban area. He met with Mayor Daly in what was called the summit conference. The mayor pledged himself and the civic leaders pledged themselves to do all they could to provide one, equal opportunity, open housing market for the whole metropolitan area.

Leadership Council was formed as a result of that. The directors of Leadership Council are a blue ribbon list of Chicagoans white and black, from the heads of major industries: Sears, Roebuck; Commonwealth Edison; Inland Steel; and Illinois Bell Telephone—if you will forgive me for putting myself in the same company—Northern Illinois

Gas, and others.

Cardinal Cody, Bishop Montgomery, other religious leaders, political leaders, several suburban mayors, pretty much a cross section of very top people who were devoted to the concept of one open housing market for everybody, without discrimination in the Chicago area.

In 1968 the Council—may I go on now to the MHDC—

MR. GROSS. Yes, please do.

MR. CHANDLER. The Council set up a nonprofit organization called Metropolitan Housing Development Corporation to engage in the construction of low- and moderate-income housing in the suburban area, and received a grant from the State for operating expenses, and for development or investment in such projects. And we have been working at it now. We spun wheels for perhaps a year, but we have been working very hard and very diligently for the last 2 years. I have been president of it for over a year and a half, and devoted an awful lot of energy to it right up to a hearing at Arlington Heights that closed at 10:30 last night.

It is hard, it is tough.

MR. GROSS. Excuse me, sir. Before we go on to the program of MHDC, can you describe a little bit more in terms of how it relates to the Leadership Council and its sources of support, and membership.

MR. CHANDLER. Well, the membership of our board is very similar, except at perhaps a notch lower in the corporate hierarchy to the Leadership Council board.

We have representation, again, from major Chicago industry. We have representation from a number of minorities, both black and Spanish speaking Americans in the city as well as in the suburban area.

Our financial support, as I say, comes still from the original State grant back in 1968.

MR. GROSS. Is there financial support from corporate employers who are involved with this?

MR. CHANDLER. Not at this stage, no. We look towards it, but our State grant has been adequate up to the present. There is corporate support of the Leadership Council. That is its major source of support, from corporate contributions.

MR. GROSS. And could you describe the specific program goals that MHDC has set for itself?

MR. CHANDLER. Well, we are seeking to build several hundred units of low- and moderate-income housing each year, in the suburban area.

We are constantly searching for land, trying to get zoning, if zoning is necessary and build either under section 235 or 236.

It has been a frustrating experience. The land search is difficult. Prices are often too high to make the section 236 feasible, make the financial feasibility work out. We have one project in South Elgin, section 235 single family project under construction. It will be about 39 or 40 homes. We have got a dozen or so sold. We have sales to blacks, Spanish speaking and to Indians.

I would judge that when we are through, perhaps eight or 10 or 12 of those homes will be sold in what was a predominantly—exclusively—

white area of modest income, white single family residential area.

We acquired land in another community, Addison, but in our rezoning application, it has become clear that we are not going to get the zoning.

We acquired an option on land in Arlington Heights I spoke of a moment ago. We completed our third hearing before the Plan Commission last night, and we lost out on our zoning petition by a vote of 9 to 2.

I don't think that either one of those, the Addison or the Arlington Heights decision, could be viewed as clearly exclusionary zoning. In both cases there were problems that Plan Commissioners would have trouble with. One case traffic outlets, and in another case, in Arlington Heights, it is completely surrounded by single family homes on all sides, and there is some question whether it meets the criteria which read perfectly reasonably. But it does show the problems, and I am bruised and battered from the flak one takes from the majority of the residents who clearly don't want it.

MR. GROSS. This was a public hearing that you are speaking of, last night?

MR. CHANDLER. It sure was.

MR. GROSS. Can you give us at all the flavor of the community reaction to this?

Perhaps you can put that in setting by describing the nature of the project, or the housing that was proposed, as it appeared before the hearing.

MR. CHANDLER. Well the project, there is 190 units of two-story, what we call attached, single family homes, in clusters. They are not row townhouses, they are not one big bulk structure. They are six or eight units in a cluster and there are several clusters. Each has its own entrance. They are one and two story.

On 15 acres, it is about as low a high density as you can have, and still have multifamily.

It abuts on one side against single family—right against the property line of single family homes that value of \$35,000 to \$65,000.

This 15 acres was made available to us from the Order of St. Viators, a Catholic order, which has a high school on 80 acres and was not using the 15, and short of funds, as many of them are, and was convinced that this was a good purpose that fit their morals and ethics and beliefs.

MR. GROSS. What is the racial composition of the residents in the surrounding area?

MR. CHANDLER. White. In fact, for miles around, I guess. I asked what the black population of Arlington Heights was at one time, from someone, expecting a percentage figure, and instead I got a number, and it was 10 or 12, or something like that.

MR. GROSS. Was there any explicit discussion of race in the meeting last night?

MR. CHANDLER. Very little.

MR. GROSS. Can you give some of the flavor of the opposition—

MR. CHANDLER. Well, the opposition says it is bad zoning, which

you should not put a—when people buy a single family against the school, they are buying something that they think will stay that way. And apartments should be used as transitional or buffer zoning between single family and commercial or single family and industrial, and that zoning should be clear when the purchaser of the single family makes his purchase, so that in effect he doesn't have the rules changed after he has made his investment.

These homes that have been there, have been there for periods of 3 to 15 or 20 years. They naturally are not happy, regardless, I think of their feelings about minority. But I think their opposition is very vocal.

MR. GROSS. Turning more to the affirmative side of this, can you indicate, since we are interested in what corporate employers can do in helping contribute to the problems, in your view, is it of any significant help that a person such as yourself, who represents major employers in the area, is supporting this effort? Perhaps not in the context of a public meeting such as this, but in various ways.

Do you think it is significant that this does have the support of employers such as yourself?

MR. CHANDLER. I think it is very significant. I think the amalgam, the coalition is almost—well, is a very desirable way to go about it.

If I were up there alone as Northern Illinois Gas trying to build this project, or any other which may fit zoning better, I would be pretty uncomfortable, because there is flak, and these people are customers, and they are public, and we want to live and get along with everybody.

Most people, as well as corporations, natural and corporate persons, do, I guess.

So when you get, well—it is just a lot more comfortable for me, for example, to have the chairman of the Leadership Council be the president of the Commonwealth Edison Company, who is our most bitter rival and competitor. And people cannot say, we are going to throw all the gas out of the house and go electric, because Tom Ayers is standing there side by side. It is one of the few things we agree on. We agree on very firmly and strongly.

So when we have Northern Illinois Gas and Commonwealth Edison and Illinois Bell lined up together, we have Sears, and we have Montgomery Ward, and we have Carsons, the major retailers in this suburban area lined up together, we have the Northwestern Railway on our board, which provides commuter service, excellent commuter service in the Chicago area, and we have the big banks, the Continental Bank, the First National, we have Borg Warner, Inland Steel, International Harvester, Jewel Tea, which is all over the area with their Jewel Stores, it makes it much more comfortable for everybody, and I think has a weight of authority to it that gets us a lot further, a lot faster than we would individually.

MR. GROSS. Finally, just looking toward the future, the Arlington Heights experience suggests that zoning is a problem.

Have you had other—I know you haven't lost the war in Arlington Heights, but have you had other setbacks in other projects related to zoning, specifically?

MR. CHANDLER. Well I mentioned Addison, where probably it was not the best place for a multifamily regardless of low- and moderate-income, or equal opportunity or anything else.

It was a kind of bottleneck traffic problem, and would have put quite a few vehicles in an area that they would have trouble getting entrance and exit.

So I think one thing we have learned, is try to pick our spots better, and not get into the zoning fight. We didn't pick the spot in Arlington Heights. It came to us from the Catholic order, and we were glad to fight the battle and will continue to.

I still think it is a good project. I don't think it will destroy property values. I don't think it will do any of the horrible things that the opponents think it will do.

I would like to see it there. And we had some good proponents, too. I would say the audience was three to one or four to one against us, but we had darned good—the one in that case—darned good one. Many of the churches, League of Women Voters, certain human relations committee of Arlington Heights, Northwest Opportunities Center, got up and some stalwart individual citizens got up and said: "This we should do. We should make some sacrifices."

It did my heart good to hear them, and I have nothing but respect for our proponents. I respect our opponents, too, but I love our proponents.

MR. GROSS. Are there any other obstacles in addition to zoning, assuming we can class that as an obstacle?

What are your other main problems, and how do they relate to you as you perceive your prospects for the future?

MR. CHANDLER. Well, we may have some financing problems. I think we can solve those with the kind of corporate support we have.

I think we will have to do more groundwork, and perhaps not too ostentatiously, as far as MHDC is concerned, in advance, to find out who these concerned citizens are ahead of time, and try to get some leaders in individual communities to take the initiative in perhaps helping us, in being front men, so that we have some stronger local support among respected leaders in the individual community. I think the kind of people that are on our board of Leadership Council Board are generally respected broadly. But the respect can vanish when we come into someone's backyard.

I think there is site selection, so as to try to find the areas that are not as controversial, although perhaps not as desirable, as something we will have to concentrate harder on.

But it isn't easy, and I don't think it is a good idea to ram something down people's throats, so that the residents, when they do come in, are going to be viewed with—as very unwelcome interlopers, and shunned and the like.

I think some way has to be prepared, and there has to be some degree of acceptance, or no one will want to move in.

MR. GROSS. Thank you.

MR. Stoner, sir, would you please describe the operation of Cummins Engine Company in terms of its location and the numbers and kinds of

employees it has?

MR. STONER. Cummins Engine Company's main manufacturing facilities are located in Columbus, Indiana. This is in the Southeastern portion of the State, about 50 miles south of Indianapolis, 75 miles north of Louisville.

This area is the sparsely settled area of the State. We manufacture diesel engines, automotive diesel engines principally, high speed diesel for industrial uses, also repair parts.

We have manufacturing facilities not only in Columbus, but also in four other locations in the United States: at Fostoria, Ohio; Cookville, Tennessee; Dallas, Texas; and Memphis, Tennessee. We have overseas plants in seven countries. In the United States, our employment totals about 12,000, 8,700 of which are located in Columbus, Indiana, being our major manufacturing location.

The employees that we have are largely commuters, because the population of the area is not great. The company was developed here from the beginning. It started here in Columbus, Indiana, and that is why our principal locations are there, our principal manufacturing facilities.

We have continued to expand in this area. As a result, many of our employees, over half now of our people, commute from a distance outside the county, which in our case is a round trip greater than 40 miles.

To the people in this area, this seems a great distance. They are not trained when they come to us. Frequently, they come as untrained. We train them, develop their skills, and, therefore, they remain with us.

The percentage of our minority employment in relation to the area—let me take each of the areas for just a moment. The commuting area in which we are located has 1 percent black people. Our employment of blacks is about 1.8 percent. It has been increasing the last few years, especially in the professional and managerial ranks.

In the other areas where we are located, outside of Columbus, at Fostoria, Ohio, we have a crankshaft plant, camshaft, machine miscellaneous parts, the minority percentage of the population there is slightly over 2 percent. Our employment is about 4 percent of the minority.

At Fleetguard, which is a filter operation, we make filters, air filters, fuel filters, at Cookville, Tennessee, which is located about 80 miles east of Nashville, Tennessee, the edge of Appalachia, there the minority population of the area is about 1 $\frac{1}{4}$ percent. Our minority employment is about 2.9 percent, approaching 3 percent.

Fridgiking is an automotive air conditioning for the after market operation in Dallas, Texas. There our minority employment, including black and Mexican Americans, is about 34 percent.

Our fourth operation is at Memphis, Tennessee, which is a reconditioning plant, where we take water pumps, fuel pumps, other component parts of the diesel engine, recondition them and sell them as reconditioned parts when the engine is overhauled or the unit is overhauled, through our distributor network domestically. We do this reconditioning in an area that is in the redevelopment area of Mem-

phis, located near the downtown area, in what at one time was our distributor. There, in that particular area, it is approaching 40 percent black, our employment there is mainly black women. Seventy-two percent of our employment is black, and that includes supervisory personnel also.

All these figures include those where we have supervisory personnel.

MR. GROSS. At the Columbus facility, if one were to draw a circle around it, such that you took in the area from which one could commute to the plant within half an hour, could you describe in more detail the nature of residence patterns in that area?

MR. STONER. We are the largest employer in five of the counties in this area.

This means that the commuting time follows the major highways that lead out of Columbus, or into Columbus, and the commuting distances are up to 40 miles one way, or 45 miles. Some a little greater, but as you near the Louisville area, the commuting is towards Louisville, or towards Cincinnati, depending upon the direction.

The road network is fairly good inasmuch as an Interstate runs north and south, and feeds into our area.

MR. GROSS. But in terms of this area to which I tried to refer, which I understand would follow the routes of the roads, is there a—in your view—an adequate supply of low- to moderate-income housing with respect to your employees?

MR. STONER. No, there is not. This is one of our great concerns, because there is not, in the Columbus area.

In order to determine this, we have been concerned for some time, because one of the conditions that make better employees, is the living conditions under which they live, and their feeling toward the company and the community in which they work.

I think there is a direct relationship, inverse, as the greater distances from the plant, the less identification they have with that community because their families are not there, their children are not going to school. Also our degree of absenteeism, our degree of turnover is greater, as the employee lives a greater distance from his place of work.

So we have been concerned about housing, in cooperation with the other industries in the area in Columbus, and our employment pattern is not unique. It is the same employment pattern that exists among the other major industries there. There are some other national industries there. Arvin Industries, Hamilton-Cosco, both national companies.

They have the same problem of the fact that they have increased turnover and absenteeism by the fact that a number of employees have to commute this greater distance.

So we, together with the other companies, made an industrial survey of housing, of our employees, their desires, and, of course, high on the list was the fact that over half of them would move closer to their location if housing available in their income, as they saw it, which we would term, I presume, low-income housing, was available.

So that has become a major concern of ours, and also, I am sure, a concern of the other employers.

MR. GROSS. Has the company determined, as a matter of principle, that this is a problem which warrants its corrective action, on its part?

MR. STONER. Yes. We have established a group in the company which I am responsible for, to make sure that we are doing all that we can in this area.

We are not sure which way we ought to go at this time, frankly. We are trying to pursue the first course of action, which you would do, to encourage local builders. How much success we are going to have with that, I am not sure. I think it will be limited.

Although, this past week we had some initial success with it. The local builders, which there are now very few, because they contend it is not profitable to build low-income housing. The profit margin is not as great as other areas of building. One of the local builders just opened a 100 single family housing unit with Federal 235 help, this last week. Put it on sale, promotion, and he was surprised. We cooperated with our employees, giving them information, urging that those who were interested go. We did not provide any financial subsidy. We urged that they go. And he sold 34 of the units, and I think financing can be arranged on the basis of which it is on this, the first weekend which he was rather surprised.

He has another unit of 100 adjacent to it, so there is a possibility of 200 this year. I think, knowing the need, I think those 200 will be taken. These are three bedroom and four bedroom houses of three standard design. The units are prefabricated and moved to the site, but it is individual house construction.

MR. GROSS. If you find that efforts to operate this way through encouraging of private home building market to fill the need, can you indicate what some of the other alternatives are that the company might contemplate?

MR. STONER. Yes. We have looked at—and I don't think encouragement of the local builders will get it all done. I would like to think it would, but I do not believe it will.

We are now encouraging outside builders, too, and the local builders are not very enthusiastic about this approach.

We also are considering some direct participation. And we have not decided on the course of action. We are considering the possibilities of maybe acquiring some land, and then indirectly subsidizing it to the extent of having builders come in and then take it over and build it with our providing the subsidy through the Land Acquisition or, lastly, build it ourselves. I don't think we will do that, because we are not house builders in that business.

But we are interested in providing the housing, and we want to provide the stimulus for it.

To what extent, we are just now in the development stage, analyzing the pluses and the minuses of each of them, and seeing to what extent we should become involved.

MR. GROSS. Thank you gentlemen. I have no further questions, Madam Chairman.

COMMISSIONER FREEMAN. Chancellor Mitchell?

COMMISSIONER MITCHELL. Mr. Chandler, your testimony has put on the record something that hasn't been there before, and in many ways may be one of the most significant pieces of testimony we have had here in this and in the prior hearings.

Really, what you have—I happened to have lived in your area and bought a lot of gas from you, as a matter of fact.

MR. CHANDLER. I am sorry you are not any more.

COMMISSIONER MITCHELL. In those days you had a shortage of gas.

MR. CHANDLER. We are back at that again.

COMMISSIONER MITCHELL. But the point really is, what you have said is that at this moment in the Chicago area, and I know how capable the leadership in Chicago is in moving in this direction, you have pulled together the great banks of the Chicago and three suburban Chicago areas, the power companies, the Sears Roebuck-Montgomery Ward complex, the great power of industry, of retailing, of food retailing, of finance, of public utilities, and you have really, as a group, said to this area: "We have to have a solution to the problem of minority housing in the suburbs."

And you are getting licked, four to one.

MR. CHANDLER. That is right.

COMMISSIONER MITCHELL. Now, who are the other three guys? Who is left, after you take the team you are on, who is left? Who is licking you?

MR. CHANDLER. Well, the commissioners that voted against us last night, one was an employee of Commonwealth Edison, who, as I said, whose president is chairman of the Leadership Council. Two are employees of the Northern Trust Company, which is a supporter of the Leadership Council. They are the Archies of All in the Family, or whatever the name of that program is. They are the people that just don't want it to happen and they raise questions—I really don't think that in every case it isn't—I just don't want a black man next door. They are concerned about traffic, about the impact on schools. Their school taxes have been going up at a very rapid rate. They are concerned about water supply, the pressure is not as good as it ought to be in the summer, what is it going to be if this comes in.

Their storm water runoff and drainage—some of them have water in the basements. What is that going to do now if some more parking lots instead of open space, so there are a whole raft of influences come to bear, and I can understand them, but—

COMMISSIONER MITCHELL. We keep saying here, and we keep exhorting our colleagues in Government, we say to the President of the United States, or the Secretary of Housing and Urban Development, and Attorney General: "What this country needs is leadership. We have got to have leadership to get out of this situation."

If there ever was a demonstration of leadership, you are producing it in the Chicago area.

How do you feel about its long-run potential?

MR. CHANDLER. I am not discouraged. I think we need some suc-

cesses. I think if we can have a few, or a half a dozen successes for people to look at, and get some witnesses to say, gee, it wasn't so bad after all, they can believe us when we show that the school impact has a fairly good chance—being positive taxwise, rather than negative. The single family home is a much harder burden on the school than the multifamily.

I think we will make it, but it is discouraging and it is slow. And although we have leadership, I don't make my living at it. I have got some other things to do, too. It takes a lot of dedication and a lot of hard work, and the problem of land at reasonable price is a difficult one. It is a real difficult one.

COMMISSIONER MITCHELL. I hope the record will show, with respect to both of you, that one Commissioner, at least, has great respect for what you are doing, and feels that it is this kind of personal-joint effort, combination of both, that is going to contribute the most to the solution of these problems.

MR. CHANDLER. Thank you very much.

COMMISSIONER FREEMAN. Dr. Horn, do you have any questions?

VICE CHAIRMAN HORN. Well, I would like to take advantage of this time period to make a few comments.

First, to commend both of you gentlemen for the obviously responsible corporate leadership which you represent, and to share Commissioner Mitchell's inquiry that we would really like to see a lot more of it as I know you would, nationwide.

Three of us, of course, on the Commission of six, are university presidents, and we all, I guess, get pretty well used as one of our occupational descriptions, to sitting patiently through nonsense and just sort of listening. And one thing I am delighted with the last 4 days, is that really we have had very little nonsense. There might have been a little emotionalism from time to time on the first or second day, and while that was heartfelt, I think that we have before us, as you represent, people that have tried to get down to the really tough problems of the processes, and how they work and how you can improve them.

For example, with maybe two or three exceptions, we did not hear much of the glib white racism tag, which is the oversimplification which killed the Kerner Commission's credibility in this country.

And I think, along that line, I remember I just finished as a delegate to the White House Conference on Youth, and one of the sadness in the final session was when a Brown Beret got up denouncing a Spanish American girl who was born in Texas of Mexican parents, and said: "Well, she is not Chicano, she says she is an American."

I think, as has been represented not only in your testimony, but in the testimony of union workers, the testimony of city officials that this Commission has heard, the sooner we settle down to looking at these processes, and how we can improve them, the better off we will all be.

And I think one thing I have gotten out of this hearing, just listening to this discussion, is that obviously we are not just talking about racial discrimination. We are talking about class discrimination in this society.

You have just noted, and I can believe it, that while sometimes it is a subterfuge on people in terms of hiding their prejudices, we have a very real problem in this country of economic discrimination.

Mr. Bertsch, our first day, and Mayor Stokes later, pointed out that it is a question of middle class blacks resenting lower class blacks moving in.

Or, it is a question of middle class whites resenting Appalachian whites moving in, etcetera.

And, of course, one of the problems in the current housing policy of the Government is, it is primarily focusing on the racial discrimination, and it is very difficult to untangle where economic discrimination and racial discrimination leave off.

I must say as an educator, I have been concerned generally, in this country, that we seem to have a certain snobbery where we place the emphasis both in the media and in our educational system on the values of the Ivy League education, the liberal arts education. We don't really give an equal emphasis and dignity to people that work with their hands, as well as their minds or their minds as a hand.

And all I want to say is, I commend you gentlemen for what you are doing. I know it is a tough road to go down, and I am sure you are taking a lot of static from probably some of your stockholders, from probably people within your corporation. But I think only if we do this not only at the national level, but at the regional, State, and local level, that is the only way we are going to solve this problem.

I just thank you for coming here today, sharing your views with us.

MR. CHANDLER. Thank you. May I make a comment on that, Madam Chairman?

COMMISSIONER FREEMAN. Yes.

MR. CHANDLER. Perhaps I should have said that another factor that comes in, that I hope time will help cure, and we will try to help cure—we are trying to help cure by what I call missionary work—is a misunderstanding about low -and moderate-income housing.

The first thing that people think of, the first thing that people in the suburbs think of, is Chicago's Cabrini Homes, which is a massive public housing, high rise publicly owned facility, primarily for people on welfare. And very predominantly black.

And it takes a lot of talking before they will come down to realize that the probable occupancy of the place we are talking about is going to be their existing senior citizens, and school teachers, and municipal workers, and hospital workers, and the lower paid people in the plants that are around the area there now, or that they would like to get in and get in the tax base.

As I say, there is a lot of education, and that will take time, but I am not pessimistic that it is hopeless, either.

COMMISSIONER FREEMAN. Gentlemen, I think we ought not to be lulled, however, into feeling that just because we have a committee that has good intentions, that we actually ought to stop there.

It seems to me that, as you say, while we need some successes, that perhaps some of the people ought to be—we ought to cut through some

of this rhetoric. It is a tragedy in this country that so many people who are themselves the beneficiaries of the Federal subsidy, and that is all the FHA-insured loan is, that they, themselves, take the Federal subsidy, move out to the suburbs, and vote to exclude other people.

Now, this is something that has to be brought home to them. This is something that has to be brought home to our Government.

And it seems to me that until we can cut through this, that we are really not, any of us, the Government, committees such as yours, and companies such as yours, doing all that needs to be done.

Mr. Stoner, I would like to know what is the median income of the 8,700 employees that you have in Columbus?

MR. STONER. Our average straight time hourly wage is \$3.85. Two thousand hours a year would be \$7,600 without overtime. \$7,800, I have just cut it.

COMMISSIONER FREEMAN. So at least more than half of your employees would come within the definition of need for this program?

MR. STONER. That's right.

COMMISSIONER FREEMAN. Well, would each of you comment on what more needs to be done, and who ought to be the people who are doing it?

MR. CHANDLER. You go ahead, while I am thinking.

MR. STONER. All right. I think a lot more needs to be done and needs to be done by several groups. It isn't one group alone.

Certainly the corporate employer, the employer needs to take a more active role, and that has not been done in the past in many communities.

I think the employer has a responsibility, a direct responsibility for making sure that action is taken and some action is stimulated, and to what extent he has to develop that as part of his overall concern for his employees.

We believe the employer has to take a very active role. I think the community has to take an active role. They have to provide an effective open housing ordinance. They have to provide the opportunity for making sure that land is available for the construction of homes.

Then I think the Federal Government, or some agency has to provide some additional subsidy in order to enable the builders, or those who are interested in it, to make a return on their investment where it will not be made.

So I think there is a joint responsibility of several people. But I think it has to be pushed by each of the groups and cannot be sloughed off on some other group and say it is their responsibility. I think each of us have a responsibility to push, and make sure we do ours, and work with others to get theirs done, also.

COMMISSIONER FREEMAN. Mr. Chandler?

MR. CHANDLER. I will buy that answer. I don't have very much to offer in addition, I don't believe. I think the educational job is important. As I indicated, it will eliminate all the misunderstanding.

COMMISSIONER FREEMAN. Would it kind of help if we would enforce the law?

MR. CHANDLER. Yes. That is the job the Leadership Council, incidentally, is doing in Chicago. It has brought over, I believe, over 100 cases now, which last time Secretary Romney was there, I believe said that was more than was brought in the rest of the country as a whole. Isn't that right, Mr. Holgrem, our managing director of the Leadership Council, who is here with me?

So, that has to be done.

COMMISSIONER FREEMAN. Father Hesburgh, do you have any questions?

CHAIRMAN HESBURGH. It seems to me as we have been going round and round this whole question, the most discouraging part, and I am fundamentally an optimist, but the most discouraging part is that we get people from the top echelons of Government. The President makes a fine statement on open housing; Secretary Romney of HUD says that he is going to do everything possible to see that open housing becomes a reality in our times; the Attorney General says he is going to uphold laws, and the laws require a decent housing in a decent neighborhood for all American citizens.

We have here two of the best representatives I know in American industry leadership, and they are not only talking about it but working for it as well, as are many Government officials.

We have put, I guess, of the country's resources, something like \$40 billion—is that adequate, Mr. Staff Director—something like \$40 billion into housing since some years after the end of World War II, and yet, when you look at the country, even look at the most recent report we published on 235 and 236, which says that the net result of all this good will and all this effort is that white people get houses built for them in the suburbs, and blacks are piled deeper and deeper into the ghettos, away from the jobs which are their opportunity for upward mobility.

You ask yourself, as Mrs. Freeman just asked you gentlemen, how do you get a handle on the problem?

What is to tell us that we won't be sitting here—not us, but our successors—10 years from now, in this city and in this country and facing this Government, and not have exactly the same situation, only worse. Because I think one can say it is not better, but worse than it was. There are more people involved in the tragedy today than there were before.

The country certainly has established some goals. I think integration is a goal that has been established in just about every front where it touches—education, voting, housing, justice, accommodations and all the rest.

We have established a goal of 29 million, Mr. Staff Director, or was it 26 million, housing units in the next 10 years—yes, 26 million, and I believe that was 1968 that the 10-year goal was set up. And we are far from being on schedule and meeting that goal.

So one asks himself, what hope can people have when they face the situation where we say we are agreed on what the ideals of the country are, we say we are agreed on the equality of opportunity in housing, as

in everything else, we say we have got behind these ideals the power of the Federal Government, the power of private industry, the power of the churches, the educational institutions, and nothing happens.

Well, where is the bottleneck, that is my question of you gentlemen.

Maybe it is Mrs. Freeman's question in another dimension. But where is the bottleneck? With all this agreement, and all the fine words, and all the money—\$40 billion is not an inconsiderable amount of money—why do we keep getting deeper and deeper into the hole, that is quite different than the mountain of ideal that we at least put forth as a country?

Mr. Chandler, would you say a word on that, and then Mr. Stoner?

MR. CHANDLER. It is a tough question.

The people are still a big force, and I don't think there is the unanimity that you cite. Maybe the unanimity among the leadership up at the top.

CHAIRMAN HESBURGH. Do you think we have the ideal expressed in the law, but the law isn't effective to do what it says it is going to do? Decent housing for every American, free access, open housing—

MR. CHANDLER. Writing the law and having a lot of leaders saying this is right, this should happen, doesn't make it occur.

CHAIRMAN HESBURGH. Are we saying then, fundamentally, that the American people are so caught up in prejudice and ignorance about what would happen if we had open housing, or fear about what would happen, that Americans are being guided by prejudice and fear, instead of by reason and civility and openness to other human beings?

Are we really saying that?

I think we are.

MR. CHANDLER. I think we are.

In the current adult generation. But Archie's kids are quite a little different, and I think maybe the hope is in the kids. It is in mine.

CHAIRMAN HESBURGH. I always say, though, I am afraid—my only fear though, I have no fear about their present conviction about being more humane than their elders. I am always afraid though, they are going to grow up and be as fatheaded as everybody else. I hope not.

VICE CHAIRMAN HORN. Or they will like humanity in the abstract, and not like people as individuals, is another fear.

CHAIRMAN HESBURGH. Mr. Stoner, what do you think of this?

MR. STONER. Well, I think it is, Father Hesburgh, I think the one thing that we have to look at is, it takes education along with it, and results to show that the fears people have are not really justified, when we get a move in an area to accomplish it. We need some successes, and they may be small successes on the local front, and we add to that.

I am not pessimistic. I am optimistic. I think that it is going to take even more money than has been provided so far. I think it is going to take—the young people, I think, fortunately, are interested in—more so in human beings than in security that they accuse the older generation of being. It may be the time in which they grew up and the time in which we grew up.

But I think these things are coming along. If we can show some suc-

cess, whether it is in Chicago, whether it is in the rural areas, or in New York, each of those areas, we can build on that. And it is an educational process.

I think it takes not only our speaking and rhetoric, but our commitment to it and the results that we can get from it.

CHAIRMAN HESBURGH. I would like to summarize, and get your reaction, both of you, to what at least came through to me in the last 4 days.

It seems there are three great blocks, if you will, to the achievement of fair and open and decent housing in this country for all Americans, not just for the privileged few who happen to be white and wealthy, or white and affluent. In saying this, I am saying I don't go along with the statement of the President's message about differentiating between racial and economic discrimination. I think they are so intertwined that I think you would have to be either a genius or, I don't know, a super-philosopher to wend your way between that distinction in the concrete case. Because I think in 80 to 90 percent of the cases, they are almost identical, although they may show one or the other manifestation.

But the three obstacles as I see it are:

The first obstacle is, I suppose, characterized by being personal or human, or even psychological, and I suppose it might best be described by the word prejudice, which has within itself a large measure of ignorance and fear and stereotyping, and making judgments without having evidence for the judgment. Just an automatic knee-jerk judgment that if we have open housing, there goes the neighborhood. Or, there goes my property values, or my kids are now going to be surrounded by drugs, or the whole panoply of fears people have because there has been some very bad public housing, and they have seen it, and they think all public housing now is going to be that and nothing else. They don't want their neighborhood to look like that.

I might say that most people living in that kind of housing, don't want to live there, and don't want to live in that kind of neighborhood either. But they can't do anything about it, because it is the only thing that is available to them, and it is getting worse rather than better because of the concentration. And their hope of working is getting worse, than better, because they can't get out of that box, and they can't travel 100 miles a day, because they are not wealthy. There is no adequate transportation to do it, anyway.

So the first block, I think, is prejudice. And I would think that we can't ask the Government to do very much about this. I think this has got to be taken on by the private sector. It has got to be taken on by parents, in families. They can't talk one way in public, and the other way in the privacy of their kitchen or living room.

I think it has got to be taken on by churches, and I think that churches have just got to come out in this country and say: "We are sick and tired of pandering to the people who support us. We would rather be poor and honest, than affluent and silent on an issue of this importance for the heart of America."

The third area, I think, are the schools that we have all said and heard said in this room, and I am sure that the fellow educators here would agree with me, that the younger people at least instinctively, are less prejudiced than the older people.

Many of them, fortunately, have had the experience which older people haven't had, which is, having friends who are of another race, or another religion, or another color.

I would think that probably 90 percent of the white affluent people in America—and I take affluence to be somewhere around \$20,000 income annually—I think that 90 percent of these people have probably never eaten a meal in the home of a black person, never spent overnight in the home of a black person. They probably never had a black person as a friend with whom they could converse on things of a personal nature, and as a result their fears are fed by the stereotypes rather than straightened out by the truth. They never had the experience of the truth.

Their youngsters are getting that experience now in all of our universities and many of our schools. Unfortunately, not too much in the segregated *de facto* schools of the large cities.

The second great block, I think, is political, and here I would think it is first a question of organization, where we are politically organized in a very unrealistic way with so many small units, that to get a good thing done, like open housing, you have to run the gauntlet of 40 people that can say: "nay." You run the gauntlet of the local government, the metropolitan problems of government, planning being done by whole segments of people in small dislocated units, that don't communicate with each other.

The question of zoning, local laws, councils that are feeling pressures from their neighbors and feeding on their neighbors' fears, and afraid to stand up and say what is right, rather than what is convenient.

You have this small, political organization also fed by the fact that many people today are saying these decisions ought to be made locally.

But I would like to ask, what decision was ever made locally in the face of national prejudice? Did the local people decide that blacks could vote in the South? Did the local people decide that somehow we are going to have housing for all people, and try to live as one Nation rather than two separate, unequal Nations?

I think there are certain great human rights that local people aren't going to say yes to, unless we can educate them faster than we have been doing, and with more success than we have been having in the past.

The third great problem, of course, is economic. You are not going to get builders building houses for lower- and middle-income people unless it is a profitable endeavor. If they can build houses for a higher echelon of income and make more money, they are going to do that.

I think they are not going to integrate labor unions, they are not going to get builders, retail people in housing, brokers and all the rest, the finance people, interested in all of this unless it is a profitable venture, because we happen to be a society that operates on profit, not on

beneficence, although there is some beneficence within the society. I am speaking at present of the foundation. I have to recognize that.

But at the same time, I think it has to be profitable. What I would like to see is profit linked to the ideal of America. We have had much disagreement in this last 4 days, about where we use the stick and where we use the carrot.

I take the availability of profit being a carrot, and I take a stick being the ideals and the laws governing this land. And I would say that we can't have 40 sticks and 40 carrots, because we don't have 40 sets of ideals in this country, but we do have 40 different kinds of laws governing all of our fragmented activities of the Federal, State, and local governments.

What I would hope we would come to, and which I would predict we would come to some day as a national ideal, is to say these are the ideals this country lives on, and if any community doesn't want to share those ideals in their totality, the totality of the benefits coming from the public purse are going to be denied them. They can't take sewer and water, and not take open housing. They can't take all kinds of help and police protection, and not open up their schools to youngsters that are desperately in need of better education.

In other words, we have had a kind of selective service going in how you feed off the Federal Government. You take all those things that are agreeable and nice, you take all the subsidies that benefit you, and you turn down the subsidies, as Mrs. Freeman says, so often benefit others.

We say: "Well, why should the poor and middle-income feed at the public purse, at the expense of the public purse?"

I would like to ask you: "How did the railroads get put across this country?" We didn't create Vanderbilts and others, without the public purse. We gave away practically—well, not practically—we did give away millions of acres of land along the right-of-way, just to get those railroads through. And I think it was a good decision, because the railroads opened up the country.

How do we get airports built all over this country for the convenience of the few that can travel by air? By public money.

You go down the list of every bit of progress this country has made, and practically all of it has been somehow subsidized by the Government for a fairly limited number of peoples who make use of the facilities, for a very, very limited number of people who will get wealthy by providing them.

And what we are really saying is, that at long last we are coming to a segment of our society and we are going to do something to help them. And we are going to use the same principles and the same methods we used to help the few get where they are, and I think it is high time we do this.

Well, if these are the three kinds of blocks we have: Prejudice, which I think will have to be taken on by the complete public sector; education, churches, private organizations, business, all kinds of benevolent organizations. The political, which I think is going to require some of our political scientists to think how we can reorganize,

or even override, little local nay-saying to great national ideals, which I think means we are going to have to have a law that can overcome a local zoning board's obstructing a national ideal. And the third thing, economic, where I think we take the benefits of America, and we link them with the ideals of America, and say: "If you don't want the one you can't have the other." And that is going to take a very firm stance, and whoever takes it is not going to get very many votes, but he may wind up being another Abraham Lincoln.

Well, anyway, these are the things that came through to me the last 4 days, and I just would like to ask two gentlemen who have been giving their own leadership problems if this makes any sense to you?

MR. STONER. Father Hesburgh, I think that is a marvelous summary, and I would agree with it.

There are two footnotes I would like to add. One deals with the governmental problem. Our local governmental units were created in the days of the horse and buggy. The county was established on how long it took to get—ride a horse—to the county seat and back again. We are still using that same concept in local government, and it is vital in the State from where I come—a reorganization is absolutely essential in order to achieve some of the basic things that you are mentioning.

Now there is resistance to that, there is always resistance, but it has to be taken on as an educational project and developed across political and party lines, because that is the way we are going to get the results. And it has to be done nationwide.

The second thing is, on the footnote, it seems to me that the churches in this country had their finest hour in the last 25 years or 30 years, or maybe the last 100 years, in the leadership role that they took in the early 1960's over the question of voting rights for the blacks. The leadership role that was not only taken by the National Council of Churches, but were taken by the Catholic churches and the bishops, and the leadership they took, not only in the South, but also in the North. And I think the one problem of education that you speak about, and the fear or the prejudice, what everyone will say, maybe is in affluent America, and I think it is. And affluent America still likes to say that they are a churchgoing portion of the population. And from the pulpits, from that area, they are going to have the educational push. And I think if the churches are to mean anything, they are going to have to take that role. Also, if they are going to appeal to the young people, they are going to have to do something in that area.

If the churches want to become a meaningful part of society again, or yet, or continue, whichever word you want to use, I think they have to participate in that. And there certainly is a challenge for them, because they need to educate us parishoners, and I think we need to help the church do that, whether it is Catholic, Protestant, or Jewish, whatever it is, or whatever the religion is, I think they can play a more dominant role than they have, and I think that is absolutely necessary for us.

Those are just two footnotes I would like to add to your excellent comments.

CHAIRMAN HESBURGH. I appreciate that second one, which is a

sermon to my department, which I accept with full heart.

MR. STONER. I did not mean it to yours. I meant it to mine, also. I am in the National Council and the Vice President of the National Council of Churches.

CHAIRMAN HESBURGH. Well, the church is us anyway, it is not me or you, it is all of us.

Mr. Chandler?

MR. CHANDLER. You summarize so well, I find myself at a loss to add very much to it, Father Hesburgh.

I do see one, footnoting your first item—I do see one element of hope there, very concretely and tangibly.

I think industry is employing more blacks. and all the way up, making a real effort up through the management ranks. The black MBA is the crown prince these days, probably getting the most offers of anybody.

We find in our company, where black employment is multiplied by five in the last 3 or 4 years, that employees are finding out that working alongside a black man, having lunch with him in the cafeteria, playing golf with him at the golf outing, you know, he is a great guy, they love him, and he is a good friend, and we can talk about things.

I know one employee who told me he was playing golf with our Charlie Thurston, one of our fine young black men, coordinator of minority employment for a while, kind of really got us going, University of Kansas graduate engineer. A man told me: "Well, I got a date to play golf with Charlie Thurston tomorrow, but don't tell my wife." So he has made the break. I think, given a chance, his wife will, too, and gradually there is some progress being made through the interplay in the job location.

CHAIRMAN HESBURGH. Ladies and gentlemen—

VICE CHAIRMAN HORN. Can I make one request for information?

CHAIRMAN HESBURGH. Yes, one quick one.

VICE CHAIRMAN HORN. Let me ask the Staff Director, Mr. Chairman, to contact both the Gallup and Roper polls and insert at this point in the record, any surveys they have in the last 5 years, as, if you will, the prejudice-nonprejudice, tolerance level by income and education. I don't think we ought to leave the record unclear that we are flagellating people because they make \$20,000 a year or above.

Any poll that I remember shows, that while there might be problems there, the problems come at a much lower income level in terms of economic class competition. And I think we ought to have that in the permanent record.

CHAIRMAN HESBURGH. I agree. I think that is a good observation.

I was thinking more about it is this category of people and this category of income level that keep other people from moving into the neighborhood.

VICE CHAIRMAN HORN. Well, they should be more active leaders, perhaps, but the problem is more complex than that.

CHAIRMAN HESBURGH. The problems of prejudice are as complex as all humanity, because it affects all of us.

Ladies and gentlemen, this hearing of the United States Commission on Civil Rights is nearing its end. If you gentlemen want to remain, I am only going to talk for a couple of minutes, it might be more comfortable to stay right where you are. We would be glad to have you associated at our closing.

I want first of all to express our appreciation to the Secretary of Agriculture, Clifford M. Hardin, for his generosity in making this auditorium available to us for this hearing.

I want also to thank Mr. T. M. Baldauf, Mr. A. R. Knudsen, Mr. Louis McElroy of the Department of Agriculture, and the members of their staffs who have been of invaluable help to us preceding and during the hearing; Mr. Meredith Baughan and Mr. Morris Bernstein of GSA, and Mr. Jack E. Braxton and Mr. R.J. Wierenga, the Deputy U.S. Marshals, who have been present throughout this hearing, also bear our gratitude.

I would like to depart from my text here, and express the gratitude of the whole Commission for our staff, which puts enormous dedication and long hours into the preparation of these hearings, and while the Commissioners may seem to get the external credit for it, I think I would like to pass that credit on particularly to them and to the others who have been associated with them, like our court reporters, who give us a good record of this proceeding.

We appreciate the cooperation of the news media representatives who have covered our sessions, even when they have been boring, on occasion, and we are again, as always, grateful to each member of our staff for all of the efforts that go into these meetings.

Over the past 1 1/2 years, this Commission has studied intensively the problem of racial polarization in our Nation's metropolitan areas. As you know, we have had hearings in Baltimore, St. Louis, and here in Washington.

It is clear that the Federal Government is only one of the many institutions which must share in the solution of this problem. But it is equally clear that the mammoth task of remedying the effects of many years of discriminatory exclusion of minorities from all suburbia, often due to Government programs, will be possible only if there are affirmative and now systematic and systemic efforts on the part of the whole Federal Government toward this end.

This view of the problem of racial polarization is perceptively reflected in the statement on the equal housing opportunity which was issued by the President of the United States last Friday. This one statement will not change overnight the present bad situation, so deeply rooted in prejudice and malpractice on the part of many in both the public and the private sector.

This hearing, which we are now concluding, has focused on deeds, rather than words, and on actual remedies. It has focused on the question whether the Federal programs and policies in fact, today, are being used to the fullest extent possible to remedy the problem of racial and economic polarization in our metropolitan areas.

Much of the testimony we have heard here for the last 3 1/2 days,

confirms the findings of our investigations over the past year and a half, that the Federal Government has not treated the problem of racial and economic polarization as a problem of the first priority. I might say a problem at the heart of the solution of America reaching its ideals.

The painful reality is this. There exist, on the statute books, basically all the laws we need to move aggressively on this problem. But somehow, the will, the imagination, at times the creativity and, above all, the sense of priorities have been lacking. Tragically, we continue to temporize with the cancer of racial polarization, with the most virulent and destructive form of racial injustice that our country knows.

It is true that over the past 2 weeks, in some cases in presentations before this Commission, a number of new initiatives were announced, or were said to be under consideration for action in the proximate future. We have heard most of the distinguished leaders of our Federal Government speak to us of their efforts to achieve equality of opportunity for Americans of all races and all ethnic backgrounds, particularly in the area of housing.

I believe they are trying to do their job well. We of the Commission assume that they are as dedicated to the promises of our Constitution as we are.

We are encouraged by what some of them have said to us. But we will have to watch closely the developments which follow the announcements, and we will not confuse these announcements with the hard reality of accomplishment.

If we sound unusually skeptical in saying this, it is because our hopes have so often been frustrated in the past.

The Commission does not intend to leave here today and let matters rest. Many new programs and policies have been announced within the past few days, and we are grateful for that.

Many promises and hopes have been expressed. We will follow them with our reports, and possibly with another hearing here in Washington, to see what progress has been made.

Just as several months after the publication of our Federal Civil Rights Enforcement Effort Report, we reviewed the progress that had been made in the areas dealt with by that report, so here our concern with the Federal Government's role in reducing racial polarization will persist.

During the months ahead, our principal concern will be with those steps which Federal Agencies can take under existing legislation to contribute to the solution of this problem, steps which thus far they have failed to take.

Let me enumerate several of these.

First, commencing with the first witness on Monday, the director of the Miami Valley Ohio Planning Commission—and recurring throughout the testimony of many of the witnesses who followed him—was emphasis on the fact that cooperation between jurisdictions in metropolitan areas is the very foundation for undoing metropolitan racial and economic polarization.

There are now Federal laws on the books which would permit—if indeed they should not be read to require—the Office of Management and Budget, HUD, Department of Transportation, and many other Federal Agencies, to require every suburb receiving Federal assistance to be part of a plan for reversing racial and economic polarization. You find this mentioned almost verbatim in the President's message.

Here is one place where the Federal interest in overcoming racial prejudice is matched by an extraordinary potential for constructive Federal leadership.

In our view, continued failure to seize upon this opportunity would be a serious breach of the Federal Government's responsibility to make solution of this problem truly a matter of first national priority.

Number two. A second factor of great significance, closely related to the first, is the need for effective cooperation among Federal Agencies in dealing with the problem of racial polarization.

Basic requirements for effective civil rights planning and project review, which apply to some programs, inexplicably are not brought to bear upon others.

At a minimum, if we are to demonstrate that we are truly dedicated to the solution of the problem of racial polarization, it is incumbent upon the Government to devise, and publicly to announce, goals and timetables for the development of a coordinated, across-the-board multiagency plan of action for dealing with this problem.

Three. A third major area where performance lags behind Federal authority and Federal responsibility is in the racially dual housing market. Secretary George Romney candidly acknowledged that systemic discrimination in the sale and rental of housing pervades the land today.

Such steps as affirmative marketing guidelines for existing housing, which HUD's proposed regulations would not cover, but I think should, are essential if this problem is to be attacked meaningfully.

When Secretary Romney appeared here on Tuesday, he stressed, as did the President in his housing statement of last Friday, that there are great limitations on what the Federal Government can do to solve the racial polarization problem. Of course, this is a fact of life which we all do well to bear in mind. I might say the problem and its solution are shared by every American, not just the Federal Government, and certainly not just the President.

But granting these limitations, they all make it all the more crucial that the Federal Government make the full use of all the tools at its command, if it is to have the effect for which it was preordained when it was constituted.

If the sorely oppressed minorities of this Nation have any one just demand, it is that the Federal Government make good on its announced purpose—loudly affirmed at these hearings by many witnesses—to remedy the manifold injustice wreaked by racial polarization in all of our metropolitan areas. That just demand makes crucial the question of whether the good words and good intentions of our Federal Government are matched with the use of every available tool

or the solution of this pressing and urgent problem.

Indisputably, this hearing has documented that this standard is not satisfied by our present course. The hopes, the trust of many of our people—indeed, of all of our people—are riding on what has been done—are riding on what is to be done in the months ahead.

This Commission hearing is officially ending. But what has been said in this room during its sessions must mark a new beginning, a renewed effort to make the bright day of justice finally dawn.

It is in this spirit, and with this hope, that on behalf of all of my fellow Commissioners and our staff, I declare that this meeting of the United States Commission on Civil Rights is adjourned.

Thank you all very much.

(Whereupon, the hearing of the U.S. Commission on Civil Rights was adjourned.)

